# KASHMIR
# MYTH OF AUTONOMY



M K TENG

The special constitutional position the Jammu and Kashmir State was accorded in 1950, when the Constitution of India was framed, envisaged the exclusion of the state from the constitutional organisation of India as well as its federal division of powers. Jammu and Kashmir, in spite of its accession to India, remained a state apart from the political organisation of India; independent of its constitutional and federal imperatives. In the present study an attempt has been made to trace the events which led to the exclusion of the state from the Indian Constitutional organisation and its federal division of powers. An attempt has also been made to analyse the constitutional relationships between the state and the Union of India over the years after the Constitution of India was promulgated. An effort has also been made to analyse the impact of the isolation of the state from the national mainstream and its effect on the integration of the state in the Indian political culture.

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Dedicated
to
the memory of my father
Pandit Sri Kanth Teng

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# *Preface*

The partition of India did not envisage the accession of the Princely States to the Dominions of India and Pakistan on the basis, the British India was divided. The partition of India left the States out of its scope and the transfer of power accepted the lapse of the Paramountcy: the imperial authority the British exercised over the States. The accession of the States to India was the culmination of a historical process which symbolised the unity of the people in the British India and the Indian States.

In 1947, when Jammu and Kashmir acceded to India, the ruler of the State, Maharaja Hari Singh signed the same standard form of the Instrument of Accession, which the other major Indian States signed. The accession of the State to India was not subject to any exceptions or pre-conditions to provide for any separate and special constitutional arrangements for the State. Neither Nehru, nor Patel gave any assurances to Hari Singh or the National Conference leaders that Jammu and Kashmir would be accorded a separate and independent political organisation on the basis of the Muslim Majority character of its population.

The demand for a separate political organisation of Jammu and Kashmir, independent of the constitutional organisation of India, was made by the National Conference leaders, when India and Pakistan accepted the cease-fire in the State in 1949 and more than one-third of its territories were left under the occupation of Pakistan. The National Conference claimed the rest of the State for the Muslim Nation of Kashmir.

The present study is aimed to provide the reader comprehensive account of the movement for the autonomy of the State of Jammu and Kashmir, its ideological content and its separatist character. The study presents and indepth analysis of the special provisions of the Constitution of India, envisaged by Article 370, and the partial application of the Constitution of India to the State in 1954. An attempt has been made to assess the consequences of the exclusion of the State from the constitutional organisation of India and their effect on the course of events in the State.

An effort has been made to uncover the linkages between the communalisation of the State, inevitable in the absence of constitutional safeguards against discriminatory exercise of authority, and the consolidation of the secessionist forces in the State. An attempt has also been made to trace the course of militarisation of the secessionist movement in the State and analyse its impact on the autonomy of the State.

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**Author**

# CHAPTER - 1

# *Indian States*

The British empire in India was divided into two separate and different political organisation: the British India which was constituted of the Indian Provinces and the Indian Princely States. The Indian Provinces were directly governed by the British Government through the Governor-General of India. Each Province was administered by a Provincial Governor, who was responsible to the Governor-General. The Governor-General as well as the Governors of the Provinces, carried on their administration with the help of the Indian Civil Service.[1]

The British, after they established their sway over India, allowed a vast number of local potentates to retain their kingdoms and fiefs in subordinate alliance with their power. These potentates, called the Princes, were after the proclamation of the British Empire in 1858, following the 1857 uprising, confirmed in their possessions, by treaties and agreements concluded between them and the British before the proclamation. The Princes were the feudatories of the British Crown, and accepted the supermacy of the British authority. The relations between the British Crown and the States were governed by the Paramountcy, which in actual practice, described the extent of the authority, the British exercised over them. The Governor-General of India was also designated the Viceroy of India, who symbolised the supermacy of the British Crown over the States.[2]

The transfer of power in India in 1947, involved the division of the British Indian Provinces into two Dominions

of India and Pakistan. The States were not brought within the scope of the partition. Paramountcy was dissolved and the States were liberated from the British tutelage, free to join the Dominions, or enter into such arrangements with them or among themselves, as they chose. Their technical independence was subject only to the British imperatives, which did not entitle them to the status of Dominions. "The two processes were distinctly separate and underlined political change which led to different consequences. The Provinces were reorganised into two independent Dominions; the States were released from the obligations of the Paramountcy and the rulers of the States were empowered to adhere to either of the two Dominions, irrespective of the communal division the Indian partition underlined."[3]

The Jammu and Kashmir State, was one of the Indian Princely States, which was carved out by the British, from the territories of the Sikh empire in 1846. After the first Anglo-Sikh war, in which the Sikhs were defeated, the British cut away almost all the Rajput principalities and north hill-states and the Provinces of Kashmir and Hazara from the Sikh empire and transformed them to Raja Gulab Singh of Jammu and Dogra feudatory of the Sikh state. Gulab Singh made good the war indemnity, which the British had imposed upon the Sikhs and which the latter had refused to pay and in lieu of which they had offered to cede to the former, the territories of the Sikh State, situated between Sutlej and Indus. Following the annexation of the Punjab by the British, the Dogra State was integrated into the Indian princely order and brought within the operation of the British Paramountcy.[4]

Dogra rule was as good and as bad as the British rule in the Indian Provinces was. Indeed the Princely rulers, were mere shadows, of the authority they were supposed to weild and except for the resources, enough to maintain their oriental splendour, the British governed the State through the Residents. The inspiration for political change in the States came from the Indian struggle against the British. The response of the

people in Jammu and Kashmir to the Indian liberation struggle was divided: the Hindus and the Sikhs were widely influenced by the Indian struggle, in the aftermath of the non-cooperation movement in 1921.[5] The Muslims, who formed the majority of the population of the State, and who were largely impervious to the Indian renaissance, remained aloof, till they were pulled into the Khilafat movement.[6]

The communal conflict, in the Punjab which followed the withdrawal of the Khilafat, had its impact on the Muslims in the State, who quickly turned round to support the British. They had, for quite sometime in the past, solicited British intervention in the State to deliver them from the Hindu rule of the Dogras, which they alleged, symbolised their slavery. Sir Mohamad Iqbal was of Kashmiri origin and his address to the annual session of the Muslim League, in 1930, envisaging the proposal to establish a Muslim confederacy in the north of India, had a deeper impact upon the Muslims in the State. Indeed, after the Muslims launched their agitation against the Hindu rule of the Dogras in 1931, Kashmir Committees were organised all over India, under the aegis of a Central Kashmir Committee which was headed by Iqbal in Lahore. The Muslim agitation led to fresh British intervention in the State. The British, however, did not bring the deliverance for the Muslims from the Dogra rule.[7]

In 1939, a section of the Muslim leadership, influenced by the formation of the Congress ministries in the Indian Provinces and joined by several Hindu and Sikh leaders, resolved to reorganise the Muslim Conference, formed in 1932, into a secular political organisation, committed to constitutional reform.[8] The main exponents of the integration of the various community movements in the State, into a joint struggle for political reform were; Sheikh Mohammad Abdullah, Sardar Budh Singh and Kashyap Bandhu. Abdullah had spearheaded the Muslim movement right from its inception in 1931. Budh Singh and Kashyap Bandhu were revolutionaries, who had revolted against the colonial rule of the British decades earlier

and repudiated the Indian princedom as an appendage of the British colonial rule.

The conversion of the Muslim Conference into a secular organisation named the National Conference, led to a spilt in the Muslim leadership, a part of which refused to abandon the struggle for the liberation of the Muslims from their subjection to the Dogra rule. After, the Muslim League adopted the Pakistan resolution in 1940, a large section of the Muslim leadership in the National Conference, mostly from Jammu, advocated the acceptance of the League resolution for Pakistan on the plea that the Muslims in the State formed a part of the Muslim India and therefore, their aspirations, were bound with the creation of Pakistan. They broke away from the National Conference, after, the Conference rejected the League resolution. The break-away faction of the National Conference and the leaders and the cadres of the Muslim Conference, led by Chaudhry Gulam Abbas Khan, of Jammu and Moulvi Yussouf Shah, the Mirwaiz of Kashmir, revived the Muslim Conference in June 1941. The Muslim Conference pledged support to the League demand for the separate Muslim State of Pakistan.[9]

The British plans about the Indian States came to surface when the Cabinet Mission proposals were announced. The Cabinet Mission refused to bring the States within the scope of the constitutional organisation, it proposed for India, portending a division of India, separating the States from the Provinces. At this crucial juncture, the Congress leadership should have turned to the people of the States to forge a common front against the British as well the Muslim League, which supported the British in their designs to Balkanise India. Instead, the Congress leadership turned to the Princes, invoking their cooperation and inviting them to join a united India on the basis of a federal division of powers.[10]

While the Congress leaders were trying to solicit the support of the Princes to a united India, which they were

invited to join on a federal basis, the National Conference upturned the whole process of negotiations, the Cabinet Mission had set in motion, by launching an agitation, demanding the abrogation of the Treaty of Amritsar, by virtue of which the State was formed in 1946. The National Conference agitation, called the "Quit Kashmir" movement, demanded the abolition of the Dogra rule and the transfer of the authority of the State to its people.[11]

The Quit Kashmir Movement marked a major shift in the outlook of the Conference. The Conference was affiliated to the All India State People Conference, which spearheaded the liberation movement in the Indian States. The States People Conference was committed to the independence of India from the British and the unity of the States and the Provinces. It advocated self-government in the States, on the same basis that the people in the Provinces would be granted in accordance with any future constitutional reform. The Quit Kashmir movement repudiated the demand for self-government, the States' People's Conference espoused, as well the unity of the States and the British India, as a basis for the Indian federation. The demand for the abrogation of the Treaty of Amritsar underlined the repudiation of the Paramountcy. However, the lapse of Paramountcy and the adherence of the States to the Indian Union went together and did not, in effect, prejudice the treaty rights of the Princes.[12]

The Quit Kashmir movement demanded the abrogation of the Treaty of Amritsar, but the National Conference did not specify the national context in which power would be transferred to the people of the State. The anulment of the treaties with the Princes, visualised beyond the unity of the States with the British India, and their adherence to a future union of India, protended the division of India in to several independence states.[13]

The Quit Kashmir caused concern to the Congress leaders because it antagonised the Princes, whose role could not be

ignored in the constitutional reforms, which would precede the transfer of power. The lapse of Paramountcy in principle, envisaged the abrogation of the treaties between the British and the Princes, and to that extent come close to the demand for the recension of the Treaty of Amritsar, the National Conference demanded.

The Cabinet Mission Plan proposed the transfer of power in the States to the Princes. The National Conference sought the transfer of power to the people of Jammu and Kashmir. Both the British and the National Conference rejected the transfer of Paramountcy to the federal union of India, as a basis for the transfer of power in the States.

The Congress leadership, however, did not abandon the National Conference. Nehru offered his good offices to bring about the settlement of differences, between the National Conference and the State Government. The State Government refused to accept Nehru's offer, and when he decided to visit the State, the State Government banned his entry. For the British, the developments in Jammu and Kashmir were not unwelcome. They did not oppose the Quit Kashmir movement, but they took such measures, as were necessary to curtail any active help, the movement received from outside.[14]

The Quit Kashmir movement market the beginning of a train of events, which in the long run, were exploited by the Muslim League as well as the British, to ensure the isolation of some of the larger Indian States from India. Hari Singh imprisoned Sheikh Mohammad Abdullah and a large section of the leaders and cadres of the National Conference, including Sardar Budh Singh.

**Invasion to Accession**

The British cast their shadows on India, even after they had quit and India was free. In the months that intervened between the transfer of power and the accession of Jammu and Kashmir to India, the British spread no effect to prepare

the ground for the accession of Jammu and Kashmir to Pakistan. Earlier, they had accomplished the accession of all the Muslim States situated within the Pakistan to that country, including the State of Kalat, where the ruler stubbornly refused to join Pakistan and insisted upon his independence. Kalat was smothered by the combined pressure of the States Department, headed by Konrad Corfield, and the Muslim League.

The British favoured the accession of Jammu and Kashmir to Pakistan. Mountbatten, did not conceal his intentions, when he told Hari Singh in Srinagar, while the two were alone and driving up to a game-preserve in South Kashmir, that his interests and the interests of his people would be served better by the accession of the State to Pakistan. Hari Singh was stunned and closed himself up in his palace refusing to meet the Viceroy, till the latter concluded his visit to the State. Mountbatten, though he had forced Congress to accept the lapse of the Paramountcy quitely resiled from his position and surreptitiously put into motion, the process of extending the partition to the States, which the lapse of the Paramountcy did not envisage. The extension of the partition to the States, was bound to ensure the accession of Jammu and Kashmir to Pakistan. After the accession of Jammu and Kashmir to Pakistan, he believed, that a workable settlement could be reached between the States of Junagarh and Hyderabad and the Dominion of India.

In August 1947, when the British quit India, the Conference leaders were still in jail. Hari Singh, offered a standstill agreement to the two Dominions, which was promptly accepted by Pakistan. The Indian Government advised him to send to the Indian capital, a properly aceredited representative, to finalise the terms of the standstill agreement. By the time the transfer of power was accomplished, Hari Singh had changed his stand and quitely waited for the time when he could come to terms with India. He was aware of the dangers in any precipitate action he took, because of Hyderabad, where the Nawab waited for his opportunity to join Pakistan and Junagarh

which had acceded to Pakistan. The Congress leaders too, realised the dangerous implications of the accession of Jammu and Kashmir to India. They conveyed their fears to Hari Singh, and secretely counselled him not to take any action, till the issue of Hyderabad and Junagarh was settled.

Pakistan, aware of the intentions of the Maharaja of Kashmir, imposed a blockade on the State, closing transit on the two roads and the railway line which connected Jammu with Sialkot and Srinagar with Rawalpindi, in Pakistan. The communication line with India, left open for the State was the fair-weather track, which ran into the State from Madhopur in Pathankot. Hari Singh, took immediate steps to construct a new road from Jammu to Madhopur.

The League leaders having been assured by the Nawab of Hyderabad of his determination to align himself with the Muslim homeland of Pakistan, set out to reduce Jammu and Kashmir by strategem and force. After Jammu and Kashmir was annexed, Pakistan would be able to deal with India in respect of Hyderabad and Junagarh, from a position of strength.

Sensing danger, Hari Singh, declared a general amnesty, withdrawing all punitive measures taken against the National Conference and released its leaders from detention. Sheikh Mohammad Abdullah was released on 29th September 1947.

The Muslim opinion about the future of the State, was almost vertically divided. The Punjabi speaking Muslims, mainly inhabiting the Jammu province and a section of the Kashmiri speaking Muslims owing allegiance to Maulana Youssouf Shah, the head of the Muslim clerical order in Kashmir, supported the accession of the State to Pakistan. The Kashmiri speaking Muslims, who formed the main support-base of the National Conference and who had opposed the Muslim League demand for Pakistan, were caught in a dilema. The National Conference leadership accused by the Muslim Conference leaders as well as Pakistan, of having

bargained with the Dogras for their freedom, felt insecure about their future. They realised that if the State acceded to Pakistan they would meet the fate, that had befallen the Red Shirts of the North-West Frontier Province, led by Khan Abdul Gaffar Khan.

During the night of 22 October, 1947 a massive force of armed irregulars, with army formations of Pakistan, led by Tochi Scouts, invaded the State. During the months after the transfer of power, a large numbers of armed Muslim activists had infiltrated into the State, across its border with Pakistan. The infiltration had led to severe unrest in the border districts of the State, where a sustained campaign of eliminating the Hindu and Sikh population had been put into operation. The ground was, therefore, prepared for the invading forces, who swept into the State. The British Resident in Jammu and Kashmir, the Chief of the Army staff, General H.L. Scott, who had cultivated the confidence of the Maharaja, and the officers commanding the Gilgit Scouts, which garrisoned the Gilgit Agency, all worked in their own way to bring about the merger of the State with Pakistan. General Scott deployed the State troops in penny-pockets over the vast border of the State with Pakistan and then told Hari Singh, how untenable the position of his defence was. He did not advise the Maharaja, about the disaffection that had set in the Muslim officers and ranks of the State Army, comprising a little less than half of its strength. In the invasion, the small army pickets were easily overrun and other Muslim officers ranks of the State army deserted and joined the enemy. On 1 November 1947, a week after the invasion of the State had commenced, the British officers of the Gilgit Scouts, hoisted the flag of Pakistan on the Garrison Quarters in Gilgit Agency and handed it over to the Pakistani troops.

Maharaja Hari Singh appealed to India for help and offered to acced to the Indian Dominion. Mountbatten delayed a decision on the despatch of the Indian troops to Kashmir to stop the invasion. Nehru watched by helplessly. Both the

Viceroy, and the Indian Prime Minister were aware of the peril to which the State was exposed as the road from Baramullah in Uri bowl, for which the invaders headed straight, and Srinagar lay before them undefended and open for their advance. The invaders entered the Uri bowl on 26 evening. The Indian troops reached Srinagar, shortly after the dawn on 27 October, 1947.

The Indian troops went into action the instance they landed on the Srinagar airport. Few of the soldiers of the first Sikh Regiment, which went into action that day, returned home. Their Commander Ranjit Roy was killed in an ambush on the outskirts of Baramullah, while he led a frontal attack on the invaders who were beginning to fan out in the suburbs to reach Srinagar and surround it. As the Indian forces increased their strength and fresh troops arrived by road, covering most of the Bannihal cart-road by forced marches, the invading armies mounted a massive assault on Srinagar during the early hours of the 8 November 1947. The Indian forces repulsed the attack. The invading armies fell back into Baramullah with the Indian troops on their heels. After the Indian troops recaptured Baramullah the invading forces began to withdraw from the Uri bowl.

The National Conference denounced the invasion and extended its support to the accession of the State to India. Together with a million of Hindus and other minorities, the Kashmiri speaking Muslims, formed more than two-third of the population of the State. The Indian leaders claimed, though interestingly, that the majority of the people of the State had repudiated the right of Pakistan to Jammu and Kashmir, which the Muslim League claimed on the basis of its Muslim majority population. The British moved in again, now to neutralise the military initiative the Indian army had assumed against the invading forces. Intriguingly the cleansing operations slowed down after the invaders were cleared off the Uri bowl and precious days, during which the Indian armies could have reached Domel and cleared the invading

forces from Muzaffarabad, were lost in indecision. Evidently, Mountbatten applied the brakes and the Indian army was bogged down in an indefensible position in the midst of a war which was bound to decide the fate of the State. The British design, of which Mountbatten had put one part into operation, was to enable Pakistan to build the strength of its forces in the state. Mountbatten achieved his objective with considerable ease as Nehru and the other Indian leaders followed his instructions without demur.

The Indian Government threw away the political as well as military initiative, it had assumed by the accession of the State, when it decided to invoke the United Nations intervention to end the invasion of the State. Mountbatten was keen to refer the dispute to the Security Council and there is enough reason to believe that his advice carried considerable weight with some of the Congress leaders. Whether the decision to refer to the United Nations on his advice alone, is highly doubtful. Gandhi had expressed skepticism about any such move. Was Nehru persuaded by the Muslim leaders in the Congress to act upon Mountbatten's advice? The Indian leaders were, perhaps, unaware of the consequences of the United Nations intervention in Kashmir for Junagarh as well as Hyderabad.

Pakistan claimed that the Jammu and Kashmir State rightfully belonged to Pakistan because of its Muslim majority population and the Indian Government had intrigued with the Hindu ruler of the State to bring about its accession to India. The Security Council did not utter a word to condemn the invasion of the State by Pakistan and instead, sought to ensure the people of the State, their right to decide their future. Ayangar was dumb-founded, and sore over the turn the events had taken. In fact, Ayangar had a brief from his government which reflected vague commitments to the principles of freedom and self-determination and secular society, on the basis of which India claimed Jammu and Kashmir, where the Muslims had upheld their traditional

values of communal tolerance. The members of the Security Council, however, had adequate information about the fraternal regard, the Muslims had shown for the invading armies in the areas which were overrun by them, the desertion of Muslim ranks from the Dogra army which had hastened the disintegration of the defences of State; the neat military manoeuvre of the Gilgit Scouts to hand over the Gilgit Agency and Baltistan to the invading armies and last ditched struggle of the Muslims of Jammu to facilitate its fall to the invaders. They viewed with scorn the judgments of the Indian Government that India had rejected the Two Nation theory of the Muslim League and on that basis accepted the accession of Jammu and Kashmir to India.

Ayangar, however, failed to tell the Security Council that the British had supported the Muslims to divide India, but after the British had left, India would not allow the Muslims to Balkanise the States. Instead, he heard Sheikh Mohammad Abdullah deliver another harrangue to the members of the Security Council in which the National Conference leader claimed the right of the Muslim nation of Kashmir to determine its own future in respect of accession. Abdullah told the Security Council that Pakistan had invaded the State to userp the freedom of the Muslim nation of Kashmir and India had taken up arms against Pakistan, to protect its freedom. The British and their allies in the Security Council, made no mistake about the message Abdullah sought to convey. He was in search of another Muslim nation in India, the nation of Kashmir, which did not form a part of Pakistan. Several major powers exhibited interest in a settlement which did not necessarily follow the political arrangement, by virtue of which the British had withdrawn from India. Perhaps, several of these powers, fiddled with the idea of recognising the independence of Jammu and Kashmir as well as Hyderabad, because, they were as much indifferent to the urge of the Indian people for unity, as the British were, while they ruled India.

**Interim Government**

On the advice of the Indian leaders, Hari Singh appointed an Emergency Administration, headed by Sheikh Mohammad Abdullah and constituted of the other Conference leaders, to deal with the situation of emergency created by the invasion. The National Conference leadership had insistently demanded the transfer of authority to the people in the State, which they had stressed would be necessary to fight Pakistan and its collaborators inside the State.

The Emergency Administration was a half-way measure and did not function smoothly. The Maharaja presumed that the Emergency Administration would act within the ambit of the authority, his Council of Ministers, delimited for it. The Conference leaders, once they were saddled into power, repudiated their responsibility to the ruler and arrogated unlimited authority to themselves. When Hari Singh objected to the manner in which the Emergency Administration functioned, the Conference leaders complained that the Maharaja was reluctant to part with any substantial authority to the people.[15]

In November 1947, the Government of India, advised Hari Singh to institute an Interim Government in the State based upon the model adopted for the Mysore State. The Mysore model envisaged the division of the powers of the State Government into two parts: the powers reserved for the Maharaja and the powers delegated to a Council of Ministers, constituted by the leaders of the popular political party in the State. The reserved powers included the prerogatives of the ruler, the ruling family, succession, judiciary, audit, Public Service Commission, elections to the State Legislature, protection of the minorities and powers pertaining to the emergencies.[16]

Hari Singh accepted to institute an Interim Government on the basis of the Mysore model. However, the Conference

leaders, did not approve the reservation of any powers for the Maharaja. The Conference leaders demanded a total transfer of powers to them. They did not agree to the inclusion of Mehar Chand Mahajan in the Interim Government to represent the Maharaja and asked for the removal of Mehar Chand Mahajan from his office. Mahajan hand played a factoral role in the Boundary Commission which was entrusted to demarcate the dividing line between the East and the West Punjab. He had, later, headed the State administration, during the crucial days, when the State was blockaded by Pakistan. In the Boundary Commission, both, Mahajan, representing the Hindus and Teja Singh, representing the Sikhs, had fought resolutely to resist the demand of the Muslim representatives for the inclusion of the whole of the Upper Bari Doab, including the Lahore division in Pakistan and saved the districts of Amritsar and Gurdaspur and thwarted the plans of the Muslim League to cut off the northern frontiers of India and extend the Muslim power to the borders of Tibet and Western China in the east.[17]

After further negotiations with the Maharaja and the Conference leaders, a compromise was finally struck, which accepted the reservation of the subjects in respect of the ruling family, succession, prerogatives of the ruler, his private office and the Dharmarth Trust. The agreement embodied the transfer of the rest of the powers to the Interim Government, which would be constituted by the leaders of the National Conference. Mahajan, it was agreed, would be relieved of his office.

Mahajan quit his office in sullen silence and left the State in humiliation. The National Conference leaders, accused him of partisanship in the communal clashes, in the Jammu Province, which followed the invasion and which were engineered by the Muslim Guard, an underground armed Muslim volunteer corpse. The Muslim Guard lay in wait for the invading armies to attack Jammu.

The Interim Government was installed into office on March 5, 1948. The arrangements which formed the basis of the Interim Government underlined:

(i) the Interim Government would exercise the powers transferred to it and it would not interfere with the reserved powers;

(ii) the Interim Government would abide by the directions, if and when the Maharaja would give it in respect of the State Government;

(iii) the Interim Government would be responsible to the Maharaja.

The Interim Government showed scant regard for the powers reserved for the ruler. Shortly after the Interim Government was installed into power, the Conference leaders, demanded the political arrangement on the basis of which the Interim Government was instituted and demanded the transfer of the reserved powers to the Interim Government. They scoffed at the prerogatives of the Maharaja to issue instructions to the Interim Government and openly repudiated their responsibility to him.[18]

The difference between the Maharaja and the National Conference revolved round several major issues:

(i) Hari Singh did not approve of the land-grab, which the Interim Government undertook under the cover of the land-reforms, to deprive the Hindus of their landed property;

(ii) Hari singh opposed the process of elimination of the Hindus and the other Minorities from the State administrative organisation, ostensibly to correct the imbalances, which the Conference leaders alleged, had been fostered by the Dogra rulers;

(iii) Hari Singh refused to agree to the proposals made by the Conference leaders to convene a Constituent

Assembly in the State, without giving wheitage to the minorities;

(iv) Hari Singh insisted upon the retention of his reserved powers and his prerogatives, such as the rulers of the other Indian State were vested with.[19]

Hari Singh complained to the States Ministry about the peremptory manner in which the Interim Government functioned and the open hostility with which the Conference leaders treated him. Patel wrote to Nehru: "I have written letters to Sheikh Sahib about easing the tension and improving relations but I regret to say that I have no reply. From all accounts it appears that the arrangements regarding reserved and non-reserved subjects to which Sheikh Sahib had agreed in March last are being treated as a nullity and the presence of the Maharaja and the existence of the reserved subjects are both being ignored."[20] However, Nehru did not intervene nor did Gopalaswami Ayangar, who had negotiated the terms of the transfer of authority, which formed the basis of the Interim Government. Ayangar had served the Maharaja as his Prime Minister during the crucial years, which had followed the introduction of provincial autonomy in the Indian Provinces. Ayangar had served the interests of the British empire with devotion. He did not muster courage to assume the initiative and resolve the differences between the Maharaja and the Interim Government. The consequences were disasterous.

The National Conference, firmly entrenched in authority launched a surreptitious campaign against the Maharaja, who they accused of having obstructed the reforms, the Interim Government sought to carry out. Sheikh Mohammad Abdullah wrote to Nehru "I am therefore, constrained to aver once again that the choice is between the Maharaja and the people and if the choice is not soon made, it might lead us into very serious trouble both militarily and politically". Sheikh Mohammad Abdullah wrote: "The only alternative is that His Highness should abdicate in favour of his son and that

there should be no reservation whatsoever, in the administration of various subjects under the Ministers".[21]

Sheikh Mohammad Abdullah did not stop here. He and the other Conference leaders launched a fresh tirade against Hari Singh, who they accused of having fomented communal riots in Jammu, in the wake of the invasion to bring about the annihilation of the Muslims. They also accused the Maharaja of seeking to retain his powers, and to perpetuate the slavery to which the Muslims of the State were subject to during the Dogra rule. In a press conference, Sheikh Abdullah, publically denounced the constitutional arrangements on which the Interim Government was formed.

The press statement evoked sharp reaction from the State's Ministry of the Government of India. Patel denounced the statement as an attempt to blackmail the Government of India. He sent in his communication to the conference leaders and upbraided them for having disowned the constitutional arrangements on which the Interim Government was based.[22]

The communication from the State's Ministry, infuriated the Conference leaders, who complained that the States Minister sought to shield the Maharaja and supported him in his effort to thwart the reforms the Interim Government intended to undertake in the State. Sheikh Mohammad Abdullah threatened to quit office, in case the Maharaja was not removed and all the powers were not transferred to the Interim Government.

## REFERENCES


1. Urmilla Phadnis; *Towards the Integration of Indian States* pp. 8-17.
2. Report of the Indian States Committee, 1928-29; R.L. Handa, *Freedom Struggle in Indian States*, pp. 32-38.
3. M.K. Teng; *The Bitter Truth.*
4. Sir Charles Gough and Arthur D. Innes; *The Sikhs and the Sikh Wars;* PP. 61-68; Khushwant Singh; *A History of the Sikhs;* pp. 48-54.

5. S. Kaul, *Freedom Struggle in Jammu and Kashmir*, pp. 78-92.
6. M.K. Teng; *Article 370*; p. 24.
7. Report of the Inquiry into Disturbances in Jammu, 1931; Report of the Srinagar Riots Enquiry Committee, Report of the Commission of Inquiry under Chairmanship of Sir Bartrand G. Glancy.
8. Resolution of the National Conference; First Session 1939, Khalid Srinagar, 1939.
9. Rashid Taseer; *Tahreek Huryat Kashmir* (vern.) pp. 246-249.
10. Memorandum submitted by the National Conference to the Cabinet Mission, 1946.
11. *Ibid.*
12. *Ibid.*
13. Desh, Srinagar 23 May, 1946; Khalid Srinagar, 1946.
14. Nehru to Maharaja Hari Singh; *Sardar Patel's Correspondence;* vol. I, P. 104.
15. Nehru to Hari Singh, *Ibid.* p. 105.
16. Report of the Boundary Commission for the Punjab, headed by Sir Cyril Radclff.
17. M.K. Teng; *Article 370*; p. 39.
18. *Sardar Patel's Correspondence;* vol. I, p. 39.
19. *Ibid.*, p. 193.
20. *Ibid.*
21. *Ibid.*
22. *Ibid.*, p. 22.

# CHAPTER - 2

# *Article 370*

The Instrument of Accession, signed by Maharaja Hari Singh, envisaged, no provisions other than those, which the Instrument of Accession, signed by the rulers of the other Princely States embodied. No exceptions were accepted by the Dominion Government in respect of the Jammu and Kashmir State. The State Department of the Government of India, did not accept any conditions laid down by the Maharaja, or the National Conference leaders to accept any special constitutional organisation of Jammu and Kashmir, or any form of federal relationship between the State and the Union of India, which the other federating States were not accorded. The Instrument of Accession stipulated:

(i) that the State of Jammu and Kashmir was merged with the Dominion of India into an indissoluble Union;

(ii) that the powers in respect of defence, foreign affairs and communications were delegated by the State to the Dominion Government of India; and

(iii) that the State was reserved the right to form a constitution for its government.[1]

The National Conference leaders, laid down no conditions for the accession of the State to India, nor did the Dominion Government, suggest to offer a separate constitutional identity of the State, independent of the constitutional organisation of India and based upon the Muslim majority character of its population. Indeed, at the time of the accession of the State,

the National Conference demanded the transfer of power to the people of the State. The Congress was already pledged to the liberalisation of the governments in the States and the introduction of political responsibility in the function of the State Governments. In the acceding States, the rulers accepted to constitute Interim Governments on the basis of responsibility to conduct the State Governments till the State Constituent Assemblies framed the constitutions for their government. The transfer of power in case of Jammu and Kashmir followed, largely, the same pattern of devolution of authority, that was followed in the other acceding States.[2]

No separate agreements of any nature, in respect of the future government of the State or its relations with the Union of India, were reached between the National Conference and the Dominion Government, before or after the accession of the State.

The accession of the State to the Dominion Government envisaged exactly the delegation of the same powers to the Dominion Legislature which the other States transferred to the Dominion Legislature by virtue of the accession of their States. Hari Singh undertook to transfer powers to the Dominion Government in respect of:

(i) defence and armed forces of the Dominion of India and the State;
(ii) external affairs;
(iii) communications;
(iv) election to the Dominion Legislature.

The subjects transferred to the Dominion Government were listed in a schedule attached to the Instrument of Accession. Maharaja Hari Singh assumed the obligation to ensure that due effect was given to the instruments of the Dominion Government, applicable in the State, by virtue of the Instrument of Accession. The State was reserved all residuary powers and the Instrument of Accession clearly

stipulated that the terms in regard to the delegation of powers to the Dominion Government would not be altered by any subsequent amendment of the Indian Independence Act of 1947, unless such an amendment was accepted by the ruler of the State by a subsequent instrument.

Hari Singh too, like the other rulers of the Indian States, did not commit himself to accept any future constitution of India. He reserved the right to enter into agreements with the Government of India under any future constitution of India. The Instrument of Accession did not affect the authority of the Ruler in and over the State or the validity of any law in force in the State, except as provided for by the Instrument of Accession.

Express stipulations were incorporated in the Instrument of Accession, whereby the Dominion Legislature was precluded to make laws, authorising compulsory acquisition of land in the State. The Maharaja undertook to acquire land at the request of the Dominion or at their expense on terms as would be agreed between him and the Government of India.

The terms and conditions envisaged by the Instrument of Accession, were not an exception, specially admitted in favour of Jammu and Kashmir. They were a part of the broad framework of the constitutional arrangements, which the States Ministry of the Government of India had evolved and within which the Indian States were invited to join the Indian Dominion. The accession of the States underlined a minimal transfer of power to the Dominion Government which the States Ministry offered to the rulers of the States to accept accession to India, whereby they would be able to retain the prerogatives and power, they exercised under the British Paramountcy.[3]

The institution of representative governments in the States, led to radical changes in the whole process of constitutional development in the States. The Princes had, at the time of

their accession, demanded that the Constitution Assembly of India would not interfere within the constitution making in the States. Consequently it was agreed upon between the States and the Constituent Assembly that the Constituent Assemblies would be convened in the States' and the Union of the States to draft their respective constitutions. The Unions of the States had been brought into being by the integration of the smaller States into viable political units. Constituent Assemblies were set up on the Saurashtra States Union, the States Union of Travancore-Cochin and the State of Mysore. It was also agreed that a model constitution would be drafted which the Constituent Assemblies of the States would follow to ensure a broadly uniform pattern of constitutional provisions for the States.

The Mysore scheme which formed the basis of the Interim Government in Jammu and Kashmir, also stipulated the convocation of a Constituent Assembly to "draft an Act for the Government in the State." It was agreed upon between the Maharaja and the Government of India that the Interim Government would formulate proposals for the election of constitution-making body to draft a constitution for the State. "I am agreeable to your suggestion", Hari Singh wrote to Gopalaswami Ayangar, "that the Interim Ministry should put up proposals for the election of the Constituent Assembly and its composition, but I should like to add that besides the elected elements, I must have the right to nominate a few persons to the Constituent Assembly out of the minority communities and other persons having substantial interest in the State if the result of the elections does not show their adequate representation."[4] Hari Singh, was not opposed to the institution of a constitution-making body elected on the basis of adult franchise and he was justified in seeking adequate representation for the minorities, to safeguard their interests in the process of the constitution-making. In the Constituent Assembly of India as well, adequate representation was ensured for the minorities, scheduled castes and special interests, to safeguard their interests in the future constitutional

organisation of India, a vital interest which every minority community in India espoused. In fact, the future course of constitutional evolution, amply proved that Hari Singh was not wrong and the Hindus and other minorities were reduced to a state of servitude in less than a decade. The Constituent Assembly instituted political instruments, which were used by the successive State Governments to enforce the communal precedence of the Muslim majority in the government and society of the State.

The Conference leaders, however, did not recognise Mysore model as the basis of the proposed constitution-making body of the State. In fact, they sought the convocation of the Constituent Assembly in the State, as an act independent of the Maharaja as well as the Instrument of Accession signed by him. "The outlook of the Conference was characterised by ambivalence and the Conference leaders made conflicting statements which varied in their content and emphasis from time to time and place to place. In effect they refused to recognise the validity of the political arrangements, the Instrument of Accession envisaged." The Conference leaders, considered the action of the State to India accomplished by the Hari Singh as a formal act, which they rediculed as "paper accession".[5] The "paper accession", they claimed was an instrument, the Maharaja had created and as such, it did not create any obligations binding upon the people of the State. The people were bound by obligations which they had undertaken. "The Conference leaders did not accept that the Instrument of Accession had integrated the State into the political jurisdiction, the Indian Dominion described, and did not recognise any obligations which emnated from the accession of the State to India."[6]

The Conference leaders claimed that the obligations undertaken by the Maharaja by virtue of the Instrument of Accession were subject to their approval. Therefore, they did not accept the accession of the State, as it was envisaged by the State Department or the ruler of the State. The Conference

leaders visualised the accession of the State as an act which was accomplished by the Interim Government, representing the people.

The accession of the State envisaged the termination of the position of the princely states, which followed the lapse of the Paramountcy. The lapse of the Paramountcy which, was the consequent of an act of the British Parliament, separated the States from the British colonial organisation and absolved them from the British sovereignty. None of the States, however, assumed independence and sovereign status by virtue of the dissolution of the Paramountcy, and before the transfer of power, merged into the State of India The two States, Hyderabad and Jammu and Kashmir, which did not accede to India before the withdrawal of the Paramountcy were unable to assume independence and sovereign status, because, the Indian Status were a creation of the British imperial authority in India and their identity ended with the termination of the British Indian empire. The act of the accession of the States, therefore, heralded the end of the position the Princely States enjoyed by virtue of the Paramountcy as well as the position, they acquired after the Paramountcy was withdrawn. The Instrument of Accession were therefore, an irreversible processes, leading to their merger in the indissoluble and independent Union of the State of India. The delegation of powers to the Dominion Government was a subsidiary act, which followed the Union of the States with the Indian Dominion. The formation of the Constitution of the States, was also a subsidiary act to the fusion of the States with the Indian Dominion. A section of the Conference leadership, sought to subject the accession, accomplished by the Maharaja, to the implementation of the plebiscite envisaged by the resolutions of the Security Council in order to leave the option for the Muslims to exercise their choice on the issue of the accession of the State.

**Third Alternative**

The British had tactily supported the vivisection of the Indian Princely States, during their rule over India and at the time of the transfer of power, they had stoutly refused to recognise the States as a part of the Indian Dominion and infact, insisted upon the lapse of the Paramountcy to ensure the exclusion of the major States from the Dominion of India. In the Security Council, they refused to recognise the implications of the accession of Jammu and Kashmir to India in the wake of the invasion. They accepted to hold a referendum in the State, though they had stoutly opposed the right of the people in the Indian State to self-determination while they ruled India. The National Conference leaders, who had enough reason to oppose the accession to Pakistan, could be offered an alternative option to the accession of the State to either of the two Dominions, which ensured them protection from Pakistan and at the same time separated them from India.

By the fall of 1948, the leaders and senior cadres of the National Conference were seriously involved in a reconsideration of their outlook on the accession of the State. They had realised, so had the Hindus and the other minorities in the State, that the British and their allies were actively engaged in seeking to dismantle the traditional frontier of India in the north and ensure the extension of the Muslim power of Pakistan over the warm Himalayan hinterland, which spread from Afghanistan in the West to Sinkiang and Tibet in the east along the southern frontiers of Soviet Russia. The United Nations Commission for India and Pakistan, constituted to investigate into the antecedents of the dispute, following the invasion of the State, addressed itself much less to the task of conciliation, it was commissioned to perform. It concentrated more on the exploration of alternatives, on which a settlement on the issue of the accession of the State could be based. The Commission, in sheer disregard of its terms of reference, appointed a sub-committee to conduct a socio-economic and geographic survey of the State, more

specially its northern regions. The survey was a part of the Cold-War operations, undertaken to build a new alliance structure in which the State was integrated, as a counter weight to the new combine of Russia and China.

India was represented in the commission by Joseph Korbel, the Zechosalovakian delegate, nominated by the Indian Government, evidently for the support India received from the Eastern European countries. Korbel was however, secretly working for the west and later defected to take refuge in the United States. The Confidence, which the Government of India shared with him, was quitely conveyed to the intelligence agencies of several western powers. Treachery took its tool and gradually the Indian demand for the withdrawal of the forces of invasion from the State, was inverted and the Indian Government was pressurised to accept the demiliterisation of the State on the basis of a parity between the quantum of troops, India retained in the State and Pakistan would hold in the occupied territories. Korbel and several other members of the Commission held long deliberations with the Conference leaders, not only on the demiliterisation of the State for the implementation of a plebiscite, but on the possibilities of seeking alternatives, which could provide the basis for a settlement of the dispute over the accession of State, acceptable to Pakistan as well as the Muslims of Kashmir. Several senior Conference leaders, some of whom had reluctantly agreed to the accession of the State to India in 1947, pleaded for an option, which excluded the State from India but did not necessarily involved its integration with Pakistan.

In September 1948, while India was under heavy pressure in the Security Council, the Interim Government mounted a severe villification campaign against Hari Singh, accusing him of obstructing the reforms which the Interim Government sought to undertake. The Interim Government denounced the Mysore model as unworkable and demanded the abdication of the Maharaja. The States Ministry sent a sharp rejoinder to Sheikh Mohammad Abdullah, disapproving of the tirade

against the Maharaja, which the State's Ministry alleged, was bound to damage the Indian stand on Kashmir. Sheikh Mohammad Abdullah struck back and threatened to quit his office. The Conference demand for the removal of Hari Singh was highly motivated by considerations, other than those, the Conference leaders apparently emphasised. The events in the Security Council, had seriously impaired their commitments to the Indian unity and secular integration of the people of Jammu and Kashmir into the Union of India. They knew, that the Maharaja, with his prerogatives would not countenance any change, which affected the accession of the State to India.

The Government of India had shown little courage to resist the pressures in the Security Council which had foisted a resolution upon it, envisaging the demilitarisation of the State to hold a plebiscite in order to determine the finality of its accession. Aware of the fact that the National Conference could alone, muster support of the Kashmiri-speaking Muslims in favour of India, they did not dare to displease the Conference leaders.

**Myth of Autonomy**

Pakistan followed a measured strategy of secretly supporting the Conference leaders in their claim to a separate and independent State. They knew that the demand for the abrogation of the accession to India, which would be a precondition for a separate political organisation for Jammu and Kashmir, would break up the National Conference.

The abandonment of the conference commitment to the accession of the State to India, would tear off the Kashmiri speaking Muslims from India as well as Pakistan, and perhaps, isolate them into a factional force which did not represent the majority of the people of the State. Vague assurances were received by the Conference leaders, through agents working in the State for Pakistan, that Pakistan would be ready to accept the accession of the State on a minimal transfer

of power, limited to defence and foreign affairs, leaving communications as well as the control over the State army, for the State to administer.

On 3 January 1949, only two days after the fighting came to an end in the State the Interim Government submitted a long memorandum to the States Ministry of the Government of India. Interestingly enough, the memorandum was signed, by Sheikh Mohammad Abdullah, and his colleagues in the Interim Government, including Girdhari Lal Dogra, and Sham Lal Saraf.

The Conference leaders wrote to the State's Minister, that since the National Conference would have to seek the support of the Muslims in the State for India in the proposed plebiscite, it would be required to put before them the Conference stand on the future of the State constitution as well as the freedom and independence it would enjoy within the Indian federal organisation. The Conference leaders informed the State's Minister that Pakistan had launched a virulent campaign against Maharaja Hari Singh, who represented autocratic Hindu rule over the Muslims. They pointed out to the State's Minister that the Muslims in Kashmir disdained the Dogra rule and considered it as the symbol of their subjection. They proposed that in order to countermand the propaganda of Pakistan that accession to India would perpetuate the Dogra rule, it would be necessary to remove Maharaja Hari Singh, banish him as well as his Maharani from the State, and to assure the Muslims that the future of the Dogra rule would be determined by the Constituent Assembly of the State.

The Conference leaders noted in their memorandum that Pakistan had offered to the Muslims of the State, complete independence in their internal affairs and assured them freedom to frame a constitution for the State, without any interference from the State of Pakistan. The memorandum noted that Pakistan had offered to vest all powers of the

government with the State, including the powers in respect of communications and the State army. The memorandum noted further that Pakistan had assured the Muslims in the State that powers in respect of only two subjects: foreign affairs and defence, transferred to it, would be exercised by the Dominion Government of Pakistan. The Conference leaders suggested that in order to neutralise the effects of the propaganda of Pakistan, it would be necessary for the Government of India to give an assurance to the Muslims that their internal freedom and internal independence would not be impaired, the control over the State army would be determined by an agreement between the Interim Government and the Government of India and the future constitutional organisation of the State would be finalised by the Constituent Assembly of the State.

For Patel, the proposal made by the Interim Government, were unacceptable. He rejected the proposals made by the Interim Government outright and informed the Conference leaders that the changes, which the memorandum envisaged, impinged upon the stipulations of the Instrument of Accession and the subsequent agreements on which the whole structure of the existing State government and its relations with the Dominion Government were based. He pointed out to the Conference leaders that the issues raised in the memorandum were beyond the powers of the States Ministry and therefore, his ministry was unable to give the memorandum any consideration.

The Conference leaders were flustered by Patel's refusal to countenance, the proposals made by them. They accused Patel of obstructing change, which sought the overthrow of feudalism in the Princely States. Rumours were set afloat by the Conference leaders that Patel supported the perpetuation of the Dogra rule in Jammu and Kashmir to alienate to Muslims of Kashmir from India and to pave the way for the eventual secession of the Kashmir Valley to Pakistan. The Conference leaders mounted a fresh attack on Hari Singh, accusing him

of interfering with the function of the Interim Government to impede the political and economic reforms, the Interim Government sought to undertake in the State.

Sheikh Mohammad Abdullah sent a separate communication to Nehru and informed him that, in case, the proposals made by the Interim Government were not accepted by the Government of India, the National Conference, would be unable to seek the support of the Muslims for India. He insisted upon the removal of Hari Singh, whose continuation as the ruler of the State caused resentment among the Muslims.

The threat had its effect and Nehru, Fearful of the campaign launched by the National Conference against the Maharaja, he convened a meeting in which the State's Minister, Sardar Patel, Maulana Azad and Gopalaswami Ayangar participated. A decision was finally reached to advise Hari Singh to leave the State for some time and entrust his authority to his son, Yuvraj Karan Singh. It was also decided that an assurance would be given to the Conference leaders that the future of the Dogra rule would be determined by the Constituent Assembly.

The Hindus reacted sharply against the attempts to neutralise the accession of the State and subject it to the verdict of the Muslim majority, half of which supported Pakistan and had joined the invading armies to carry death to their doors. They were already antagonised by the Interim Government, which had, right from the time it assumed office, carried on a villification campaign against them, charging them of having supported the Dogra State. The Interim Government had eliminated them almost completely from the State Government and its decision-making clusters as well as its economic organisation. The Hindus voiced strong disapproval of the removal of Hari Singh from the State, whose presence, they claimed, was necessary for the security of the State and the protection of the minorities, who were devastated by the policies of the Interim Government.

Nehru acted on impulse and fearing that an open expression of Hindu resentment against the Interim Government, would cause embarassment to the Government of India, he ignored the Hindu protest.

While the Indian leaders decided to remove Maharaja, Hari Singh from the State, Sheikh Mohammad Abdullah threw a bombshell amidst them. In a press conference with Michael Davidson of the influential English newspaper, Scottsman, he pleaded for the independence of the State, which he claimed would ensure friendship of the State with both the Dominions, and economic cooperation with them. Sheikh Mohammad Abdullah said: "Accession on either side cannot bring peace". He stated further: "We want to live in friendship with both Dominions. Perhaps a middle path between them, with economic cooperation with each, will be the only way of doing it. But an independent Kashmir must be guaranteed not only by India and Pakistan, but also by Britain, the United States and the other members of the United Nations."[7] Sheikh Mohammad Abdullah made wild claims of having resisted fanaticism and communalism. He claimed to have pleaded with the two Dominions to enable the Muslims of Kashmir to gain freedom from the Dogra rule, before they would take a decision on the accession of the State. He stated: "During the communal rights in the Punjab after partition, we tried in our humble way to stem the wave of fanaticism. That is why I urged we should wait before deciding our affiliations. I pleaded with both the Dominions to help us first to win internal emancipation before asking us to choose. India replied by refusing to make a standstill agreement with the Maharaja, Pakistan did so. When during the crisis India accepted the Maharaja's accession, Pandit Nehru insisted that it was only provisional and people must decide later".[8]

The Press Statement was vicious in content and perhaps, for once, Sheikh Mohammad Abdullah threw away his caution to make a clean breast of how he thought about the future of the State. His press-statement, clearly reflected the fundamental

basis of the Conference outlook, which had abandoned its commitment to Indian unity,. His assertion that he had pleaded for the emanicipation of the Muslims from the Dogra rule before they would exercise their choice, in respect of accession was a wild claim, because the League as well as the British had insisted upon the reversion of the Paramountcy to the Princes, an arrangement which the Congress had also accepted. In none of the States, which had acceded to the two Dominions, the people's right to determine the accession of their State was recognised. Neither the State Minister, Sardar Patel, nor his Secretary, V.P. Menon, nor even the Viceroy ascertained the views of the people, in their negotiations with the Princes. The Muslims of Kashmir were not different from the rest of the States' people and the lapse of the Paramountcy operated with the same effect on them as it did on the people of the other Indian States.

The demand to seek the liberation of the Muslims from the Dogra rule was an astute move to forestall any attempt Hari Singh made to accede to India. Sheikh Mohammad Abdullah realised that Maharaja Hari Singh would eventually accede to India and so long the initiative remained in his hands, the Muslims would not be able to change his decision. He demanded the freedom of the Muslims from the Dogra rule as a subtle manuevre to shift the initiative from the Maharaja to the Muslims, who as he rightly pointed out in his press statement, would opt for independence, if they did not accede to Pakistan.

Nehru had a meeting with Sheikh Mohammad Abdullah a day after the latter's press statement was published in the Scottsman. He was, however, unaware of the press statement, Abdullah had made.

During the meeting, Nehru told Abdullah that the Government, of India disapproved of the accusations the National Conference had levelled against Hari Singh. He told Sheikh Mohammad Abdullah that the State of distrust

between the Maharaja and the Interim Government had adversely affected the Indian stand on Kashmir. Nehru apprised him of the decision his government had taken in regard to the removal of Hari Singh and assured him that the Constituent Assembly of the State, would, after it was convened, determine the future of the Dogra dynasty. Giving a resume of his discussions with Abdullah, Nehru wrote to Patel: "I had a long talk with Abdullah last night and again pointed out to him very forcefully how unfortunate and wrong his attitude was in this particular matter and how it was creating difficulties not only for us but for himself. He repeated his old complaints which included the very facts that our intelligence officer has stated." Nehru added: "The consequences are undoubtedly bad and I feel that it is no longer safe for us to allow, matters to drift. You will remember that we discussed this matter fully sometime ago in your house. Gopalaswami Ayangar and others were present. Ultimately we came to the conclusion that the proper course to adopt was for us to take the attitude that it was for the people of Kashmir in the Constituent Assembly to decide about the future of the Maharaja. But even now it was highly desirable that the Maharaja should take some time of leave and not remain in Kashmir".[9]

Abdullah's press statement administered a shock to the Indian leaders. In consternation Patel wrote to Gopalaswami Ayangar: "You have probably seen the interview by Sheikh Sahib to Micheal Davidson which was published in the *Scottsman* of 14 April 1949. A vehement exponent of accession of India seems to have been converted to an independent Kashmir. He wants absentee landlords, most of whom have gone to Pakistan to be expropriated. At the same time he has got, according to information brought here by Sethi of the Agricultural Ministry, large tracts of valuable irrigated lands vacant lest non-Muslims should settle down on them, and this is at a time when elsewhere we are asking for every inch of land to be cultivated."[11]

Ayangar too received a jolt by the press statement of Abdullah. He wrote to Patel: "My attention was drawn to this interview earlier in the day. It is a more astonishing performance, Kachru, who is going to Kashmir tomorrow, has just been to see me and I am sending a message through him to Sheikh Abdullah. I have asked him to tell the latter that I condemn the Sheikh's action and that I feel that what he has told Micheal Davidson and what the latter has published will have the most mischievous consequences both in India and abroad. I have asked him to inform the Sheikh that, reading between the lines, I suspect a plan, the first step of which is this blessing by the Premier of Kashmir of the idea of an independent Kashmir and this public expression of his conviction that accession to India will not bring peace, and the first step of which may well be perhaps one of the greatest betrayels in history."[12]

Later events proved that it was, indeed the greatest betrayel in history. The National Conference, drew closer to the idea of independence as pressures increased on India in the Security Council to accept demiliterisation of the State which allowed Pakistan to retain a larger part of its armies in the occupied territories. After India refused to accept demiliterisation on terms Pakistan laid down and the prospects of the plebiscite receded, the National Conference leaders began to canvas support for a third alternative, to secure the state a position of equidistance between the two Dominions.

Kachru conveyed to Sheikh Mohammad Abdullah, Ayangar's displeasure on his Press Conference. Sheikh Mohammad Abdullah who had received unflinching support from Kachru and the All India States' People's Conference during the Quit Kashmir movement, treated him with scant respect. He told Kachru he never meant what he had said in his press statement and he had only done some "loud thinking". Kachru, in accordance with Ayangar's advice, asked Sheikh Mohammad Abdullah to contradict Micheal Davidson's report. To his astonishment, Abdullah refused to retrect his

statement. The negotiations for demiliterisation had bogged down to a stalemate because Pakistan demanded, (a) parity in the number of troops retained by the two countries on either side of the case-fire line (b) undisturbed control over the territories under its occupation and (c) the induction of a Plebiscite Administration in the State to implement the United Nations resolutions. The acceptance of the demiliterisation on the terms laid down by Pakistan tantamounted to handing over of the State to that country on a platter. The Conference leaders sought to use the United Nations intervention to prepare the ground for the independence of the State, exactly in the manner, the Muslim League had used the British to divide India to forge an independent Muslim State for the Muslims in India.

Abdullah's statement chastened no one in the Congress. None of the men in the Indian Government, inspite of their anger against the press interview of Sheikh Mohammad Abdullah, mustered enough courage to face the threat the Conference leaders posed to the State. Perhaps, still in the belief that the removal of Hari Singh, for which the Conference leaders pressed hard, would placate them, the Indian government hurried to dispose off the Maharaja and recognise the undisputed authority of the Interim Government over the State. The Indian leaders ignored completely the remonstrations made by the Hindus and the other minorities in the State against the ravages to which the Muslimisation of the State had exposed them and the dangers which were inherent in the communalisation of the society in the State. The Congress leaders, blinded by their sense of self-righteousness, chastised the Hindus for their inability to recognise the primacy of the Muslims in a state where the Muslims were in a majority. Quite in contrast, however, Nehru and other Congress leaders, rejected outright the Hindu primacy in the Hindu majority States in India and insisted upon the secular integration of the Indian people on the basis of equality, irrespective of religion, caste and creed.

Patel sent a communication to the Maharaja to come to Delhi without any further delay. "I hope Your Highness received message sent by Shanker on my behalf by telegram and through your assistant Private Secretary about necessity of coming as early as possible. I am sorry to note that there had been no response from Your Highness so far. Matters which I propose to discuss with you admit of no delay and I should therefore, be grateful if you come here as soon as possible."

The fateful meeting between Hari Singh and Patel took place in Delhi on 29 April 1949. Maharani Tara Devi was with the Maharaja. Patel apprised the Maharaja of the demand for his abdication, the National Conference had made. Patel told the Maharaja, that though the Government of India had not accepted the demand of the Conference leaders, yet it was found necessary to advise him to leave the State for some time and appoint his son, as the Regent in his place. Patel followed the same practice, the British had adopted to dispossess the Princes in India, whenever the interests of the Paramountcy had so dictated. Patel told Hari Singh that his absence would be in the interests of the State, particularly in the uncertainly the proposed plebiscite had created. Hari Singh was stunned. He emerged out of the meeting distraught and shaken.

Patel assured the Maharaja that his stay outside the State would be a "temporary phase" and he would return to his State after a settlement with regard to the impending plebiscite was finalised. Whatever measure of truth there was in Patel's assurances, the Maharaja had no alternative except to follow his advice. Hari Singh trusted Patel and he put his ship in Patel's hands. Patel drove him straight to the reefs. Hari Singh never returned home.

In distress, Hari Singh wrote to Patel: "I should like to say at the outset that I was completely taken aback by this proposal, but coming as it did from you, in whom I have

since the very beginning placed implicit trust and confidence and whose advice I have throughout followed on the many questions affecting me personally and my State both in the present and in future, I have been able somehow to adjust myself to it. I would not, however, be human if I did not express my sense of keen disappointment and bewilderment at having been called upon to make such a sacrifice of personal prestige, honour and position, when all along I have been content to follow, sometimes even against my own judgment and conscience, the advice in regard to the constitutional position in the State, which I have been receiving from the Prime Minister or yourself, sometimes against arrangements which were agreed to only a few months before."[13]

Hari Singh expressed disgust over the way, he had been subject to columny both inside and outside the State and complained to Patel. "I should" he wrote to Patel, "have had to be driven from position to position-each of which I thought I held on the advice of the State Ministry."

Posterity will alone judge Patel and the other Congress leaders for the fateful decision to remove Hari Singh, at a time, when a new form of Muslim separatism, more dangerous than the Muslim a struggle for Pakistan in the British India, had made its appearance in the State. The Muslims in India had sought to separate from India to achieve their nationhood. The Muslims in Jammu and Kashmir, however, sought to separate from India to realise their Islamic destiny.

The later events proved that the Congress leaders, borne down by the burdens of the liberalist traditions, they had inherited from their British master, abandoned their caution out of a rather distorted sense of commitment to freedom. Hari Singh, the Indian leaders felt, was not needed in the sordid drama unfolded by the United Nations intervention. Nor where, perhaps, the Hindus and the Sikhs who had been butchered in the invasion and who were now being ravaged by the Muslimisation of the State, of any relevence to the

crisis.

Hari Singh did not ask Patel whether India would win the Plebiscite after he had left. If he had asked Patel, the bluff would have been called off.

Hari Singh sought an assurance from Patel that his temporary absence from the State would not be construed as a prelude to his abdication. "Sheikh Mohammad Abdullah should be clearly told", he wrote to Patel, "to stop the campaign of villification against me and to abandon all activities, both on his part and that of his followers, aimed at securing my abdication". Patel reiterated his assurance to Hari Singh. He added that the future constitutional organisation of the State would be evolved by the Constituent Assembly of the State, after it was convened." We have made the position quite plain to Sheikh Mohammad Abdullah", Patel wrote", and we hope there will be an end to the derogatory controversies centering round this matter as well as the derogatory references to Your Highness in the press and on the platform in the State. Your Highness will of course, appreciate that the future constitution of the State would be determined by the duly elected Constituent Assembly".[14]

Nehru apprised the Conference leaders of the agreement reached with Hari Singh. While they accepted the proposal that the Constituent Assembly of the State would determine the future of the Dogra dynasty, they did not endorse the removal of Hari Singh on temporary basis. They told Nehru that temporary removal of Hari Singh would not ally the fears of the Muslims, who identified the Dogra rule with their subjection to slavery. The Conference leaders, were perhaps, eager to eliminate the Maharaja, in order to pave the way for the installation of a Muslim as the head of the State, who would do be prepared to act on the behest of the Conference leaders.

**Delhi Conference**

While negotiations between the State Ministry and the rulers of the Indian States were in progress, the States Ministry accepted that Constituent Assemblies would be convened in the States to draw up separate constitutions for their governments. The rulers agreed that the Constituent Assemblies of the States would follow a model constitution which would be framed under the aegis of the Constituent Assembly of India to ensure a broad uniformity in the constitutions of the States. "In November 1948, the States Ministry set up a Committee to frame a model Constitution which could be adopted by the States. By that time it became clear that unless proper guidance was given to the States in the matter of constitution-making, there would be so much variation in the pattern of the State constitutions that a veritable jigsaw puzzle would be the result. It was felt desirable that this should be done under the aegis of the Constituent Assembly." The convocation of the Constituent Assemblies in the States proved to be a difficult task and in many States and the Unions of the States, which had been formed by merger of States after their accession to India, the problems of integration were so complicated that Constituent Assemblies were convened in only two Unions of the States, Saurashtra and Travancore-Cochin and the Mysore State. In view of the delay in the convocation of the Constituent Assemblies in the States, the Premiers Conference held in May 1949, decided to entrust the task of the constitution-making in the States, to the Constituent Assembly of India. "In light of these difficulties the entire question was considered in May 1949, at a Conference of the Premiers of the various Unions and the States. This Conference decided not to wait until the Constituent Assemblies set up in all the Unions of the States had framed their respective Constitution. Especially in view of the fact that the guidelines for States could be left to the Constituent Assembly which would in view of the past commitments, function with the consent and concurrence of the individual States."[15]

A Committee was constituted by the Ministry of States, to suggest measures to implement the decision arrived in the Premiers Conference. The recommendations of the Committee were discussed with the Drafting Committee of the Constituent Assembly which finalised the amendments to be made to provide for the Indian States. The draft provisions for the States were then sent to the Constituent Assemblies of Sourashtra, Travancore-Cochin and Mysore and all other Rajparmukhs of the States.[16]

The Rajparmukhs issued the following proclamations accepting the draft provisions:

> that the Constitution of India shortly to be adopted by the Constituent Assembly of India shall be the Constitution for.....State as for other parts of India and shall be enforced as such in accordance with the tenor of its provisions. That the provisions of the said Constitution shall as from the date of its commencement, supersede and abrogate all other constitutional provisions inconsistent therewith, which are at present in force in this State."

The proclamations were issued by all Rajparmukhs, including the Nizam of Hyderabad, the Maharaja of Mysore and the Maharaja of Jammu and Kashmir.[17]

The National Conference leaders did not accept the decision arrived in the Premiers Conference. They reiterated their position to convene a Constituent Assembly for the State of Jammu and Kashmir which would draft a separate constitution for the State. Consequently, a separate conference between the representatives of the Government of India and the National Conference leaders was convened in Delhi in May 1949, to finalise the broad basis on which the constitutional organisation of the State would be framed and its position in the federal union of India determined.

The Indian representatives proposed the application of the Constitution of India to the State, except, that (a) the provisions of the Constitution of India with regard to the State governments would not be extended to the State; (b) and the division of powers between the State and the Union would be so devised as to suit the peculiar historical and political antecedents of the State. They proposed the application of the Constitution of India to Jammu and Kashmir, particularly in respect of the territorial jurisdiction of the Union of India, citizenship, fundamental rights and related constitutional guarantees, principles of state policy, union judiciary, the elections and powers to deal with the emergencies, the Constituent Assembly envisaged for India. They further proposed the application of the Central List of the Seventh Schedule of the Constitution of India in which the Constituent Assembly proposed to include subjects over which the Union Legislature would legislate. The Seventh Schedule, proposed to be appended to the Constitution of India, enumerated powers for the Union and States and powers over which the Union and the States would have concurrent jurisdiction.

The National Conference leaders administered a jolt to the Indian leaders, when they expressed their inability to accept the application of any provisions of the Constitution of India to the State. They suggested that Jammu and Kashmir should be placed outside the framework of the Constitution of India, and its relations with the Union should be governed by the terms of the Instrument of Accession, which, in view of the dispute in the United Nations, could not be superceded by any fresh agreements between the State and the Indian Dominion till the final disposition of the State in regard to accession was not determined. They refused to accept the application of any provision of the Constitution of India to the State, which did not conform to stipulations of the Instrument of Accession and which had not been approved by the Interim Government. The Conference leaders, actually insisted upon the acceptance of a separate set of instruments,

independent of the Constitution of India, which would govern the relations between the State and the Union, in view of the separate, social and cultural identity of the State and its history. In effect, they conveyed to the Indian leaders, that the Muslim majority State that the Jammu and Kashmir was, could not form a part of the Indian constitutional organisation.

The Conference leaders reiterated their demand for the restoration of the administrative and operational control of the State army to the Interim Government. They claimed that after the emergency had ended and the Indian armies withdrawn from the State, the State army would take charge of the defence of the State. They sought to convey to the Indian leaders that the deployment of the Indian troops in the State was not a part of the accession and the powers of the Indian Government in regard to the defence of the State, did not extend over the State army. Presumably, the Conference leaders, believed that the Indian troops had been deployed in the State to fight the invasion and after that was achieved, they would be withdrawn and the defence of the State would be entrusted to the Muslim ranks of the State army, which the Interim Government would raise in the meantime.

Sheikh Mohammad Abdullah repeated old allegations that during the Dogra rule, the State army had always been a close preserve of the Hindu Rajputs, excluding the Muslims from its ranks. The Muslims, however, formed almost half the strength of the State army. Besides far larger of their numbers were recruited to the British Imperial Troops. The entire cadre of the Gilgit Scouts was constituted of the Muslims. In fact, the Muslim officers and ranks of the State army, the ex-soldiers of the Imperial Troops and Gilgit Scouts proved the undoing of the Dogra State, as they formed a formidable frontline of the invading armies of Pakistan, which stormed into the State in 1947.

Nehru and the other representatives of the Government of India were flustered by the proposal the Conference leaders

made. They were particularly disparaged by proposals, the Conference leaders made to exclude the State from the entire constitutional organisation of India. They rejected the National Conference proposals outright and insisted upon the inclusion of the State in the constitutional organisation of India, more specifically in respect of the territorial jurisdiction of the Union of India, Indian citizenship, the fundamental rights and the related legal guarantees, federal judiciary, the directive principles of the state policy and the emergencies. Nehru emphasised the necessity of formulating a uniform bill of rights for all the people of India, including the people of Jammu and Kashmir, irrespective of creed and caste. He told the Conference leaders that he would not countenance any situation in which any people in India, would be deprived of their rights and safeguards which the Constitution of India envisaged. "Nehru laid great stress on the application to the State, of the principles of state policy of the Constitution of India, which, he claimed the Constituent Assembly of India had evolved with great pride, and which promised the people of India, social justice, freedom from want, protection against exploitation, education, the eradication off untouchability, protection of children and better standards of life."[18]

The Indian leaders rejected the contention of the Conference leaders for the restoration of the administrative control over the State army to the Interim Government. They told the Conference leaders that the Dominion Government had assumed all authority over the defences of the State and control over the State armies. They pointed out to the Conference leaders that the transfer of the State army to the Dominion Government was accomplished by the Instrument of Accession and the responsibility of the defence of the Sate rested with the Government of India and not with the Interim Government. They categorically refused to accept the proposals to return the State army to the control of any local government, even after the emergency caused by the invasion was brought to an end.

The Conference leaders, had loudly complained that the Muslims in the State were not recruited in the State army. The allegations were far from true. However, Nehru assured the Conference leaders that all people in India, including the people in the State, would enjoy equality of opportunity, guaranteed by the Constitution of India and therefore, the Muslims in the State would not suffer any discrimination in respect of their recruitment to the State army.

An agreement was reached in the Delhi Conference, which envisaged the inclusion of Jammu and Kashmir in the constitutional organisation of India. The agreement stipulated that the provisions of the Constitution of India in respect of the territories of the Union, citizenship, fundamental rights and related safeguards, principles of state policy, the jurisdiction of the federal judiciary and emergency powers, would extend to the State, subject to the modification that no such provision would impinge upon the domicillary rights envisaged by the State-Subject rules in force in the State and the economic reforms the Interim Government would undertake. The agreement further stipulated that the State army would be merged with the Indian defence forces. In regard to the division of powers between the Union Government and the State, the agreement stipulated that the Union would exercise powers in regard to the subjects transferred to the Dominion Government by virtue of the Instrument of Accession and such other matters as would be transferred to the Union by the decision of the Constituent Assembly of the Jammu and Kashmir State after it was convened.

Hardly had the conference concluded, the National Conference leaders raised fresh controversies, in respect of several stipulation of the agreement. Nehru was dismayed. However, he clarified the position of the Government of India and wrote to Sheikh Mohammad Abdullah:[19]

"1. In the course of talks at Sardar Patel's residence on

15 and 16 May 1949, between some of my colleagues and me and you and your colleagues, important issues raised by you in regard to the future of Jammu and Kashmir were discussed.

2. Among the subjects that were discussed were: (i) framing of the Constitution of the State; (ii) the subjects in respect of which the State should accede to the Union of India; (iii) monarchical form of government in the State; (iv) the control over the State Forces; and (v) the rights of the citizens of the State of equality of opportunity for service in the State army.
3. As regards (i) and (ii) it has been settled policy of the Government of India, which on many occasions has been stated both by Sardar Patel and me, that the Constitution of Jammu and Kashmir State is a matter for determination by the people of the State represented in a Constituent Assembly convened for the purpose. In the special circumstances of the State of Jammu and Kashmir the Government of India have no objection to the Constituent Assembly of the State considering the question of the continuance of the association of the State with a constitutional monarchy.
4. In regard to (ii) Jammu and Kashmir State now stands acceded to the Indian Union in respect of three subjects, namely foreign affairs, defence and communications. It will be for the Constituent Assembly of the State, when convened, to determine in respect of what other subjects the States may accede.
5. Regarding (iv) Both the operational and administrative control over the State Forces has already, been with the consent of the Government of Jammu and Kashmir, taken over by the Indian Army. The final arrangements in this connections,

for the duration of the present emergency, including financial responsibility for the expenditure involved, were agreed to between us on 16th instant.

6. As regards (v) the citizens of the State will have equality of opportunity for service in the Indian Army. Under Article 10 of the draft of the new constitution as passed by the Constituent Assembly of India, equality of opportunity for employment under the State, including employment in the Indian Army, is declared to be amongst the fundamental rights of all Indian citizens.

Shortly after the Delhi Conference, Nehru visited Srinagar, where he had further discussion with Sheikh Mohammad Abdullah on the position of the State in the federal organisation of India. Nehru assured Sheikh Mohammad Abdullah that in the division of powers between the Union and Jammu and Kashmir, the State would be ensured complete autonomy and the Union Government would exercise authority in respect of the subjects mentioned in the Instrument of Accession i.e. defence, communications and foreign affairs. He assured Abdullah that the future constitutional organisation of the State would be evolved by the Constituent Assembly of the State which would be convened by the Interim Government on the basis of universal adult franchise. He told Abdullah that the future of the Dogra rule would also be determined by the Constituent Assembly.

Sheikh Mohammad Abdullah again raised the issue of the State army and the recruitment of Muslims in its ranks. Nehru assured the Conference leaders that in the recruitment to the State troops, which had been taken over by the Indian army, no one community or people would suffer discrimination on the basis of religion, caste and place of birth. Nehru explained to the Conference leaders that the Jammu and Kashmir State was a part of the territories of India and therefore, it has to be included in the territorial jurisdiction of the

Indian Union, the Constitution of India created. He told the Conference leaders that the people of the State could not be excluded from the Indian citizenship, nor could they be deprived of the rights and related legal safeguards, the Constitution of India enshrined. He restated the stand of the Government of India, that it was necessary to empower the Union to deal with emergencies arising out of war and rebellion as well as internal disorder, in all the erstwhile princely States, which had acceeded to India in view of the dangers, the unity of the country faced. Nehru told the Conference leaders that such powers assumed by the Government of India, in respect of the States were implied in their accession to the Dominion of India.

The Conference leaders presented a demeanour of calm satisfaction with the discussion Nehru had with them, but underneath the surface, they harboured deep distrust about the outcome of the Delhi Conference. They bided time and waited for Hari Singh to leave the State. Hari Singh was the Rajpramukh of the State and Abdullah was apprehensive of his willingness to enter into any agreements with the Government of India to accept the extension of the Constitution of India to the State.

Nehru apparently content with the settlement he had reached with the Conference leaders, informed Patel to apprise Hari Singh of it. At no stage in their confabulations with the National Conference leaders, did the Congress leaders consult Hari Singh about the arrangements made with the Conference leaders about the future constitutional organisation of the State. Nor were the minorities, the Hindus, Sikhs and the Buddhists, who harboured serious doubts about the policies of the Interim Government and strongly opposed the exclusion of the State from the Constitutional organisation of India, taken into confidence by them. Nehru wrote to Patel: "I hope that this will be an end to the squabbles that have been going on in public. This has been impressed upon Sheikh Mohammad

Abdullah and I am pointing out to him again in a separate letter". He added: "I hope you will explain to the Maharaja and the Maharani as well as the Yuvraj, the agreement arrived, at between us and Sheikh Abdullah and his colleagues. The written agreement rightly does not say anything about the Maharaja's going out of the State. But we have naturally to abide by it."[20]

Due to the turbulance that followed the accession of the State and the long conflict between Hari Singh and Interim Government, Jammu and Kashmir remained unrepresented in the Constituent Assembly of India. The States were allotted 93 seats in the Constituent Assembly out of which Jammu and Kashmir was allotted 4 seats. The Interim Government wanted to nominate all the four representatives without taking into consideration the minorities and their interests. Hari Singh disagreed. He was finally persuaded to nominate the representatives of the Interim Government to the Assembly. The Interim Government nominated Sheikh Mohammad Abdullah, Mirza Afzal Beg, Maulana Masoodi and Moti Ram Baigra. Hari Singh was in Dehradun and the nominations were sent to him for his approval. The nominees of the National Conference joined the Constituent Assembly of India on 6 June 1949.

The Conference had truimphed. Both Beg and Masoodi were proteges of the Conference loyal to Abdullah. They were not committed to the unity of India. Moti Ram Baigra, an obscure Hindu political activist, who was thrown into prominence by the upheaval caused by the invasion in 1947, had little acumen to influence his colleagues.

On 9 June 1949, Maharaja Hari Singh announced by a proclamation his decision to leave the State and appoint his son, Yuvraj Karan Singh the Regent of the State. Soon after Hari Singh left the State, the leaders to the National Conference, who were now in complete control of the Government of the State, prepared ground to repudiate the agreement they had

reached with the Congress leaders in May. Several closed door meetings, in which Muslim leaders of the Conference alone were invited to join, were convened in Srinagar to reconsider the terms of the agreement the Conference leaders had accepted. "Most of the meetings were secretly organised, and were confined to the Muslim leaders of the Conference, the Hindus and Sikhs being excluded. Prominent and influential Muslims who had opposed the accession of the State to India and senior Muslims officers of the State Government, who had opposed the National Conference, were specially invited to attend these meetings. Many among them were in clandestine contact with the Azad Kashmir authorities on the other side of the cease-fire line and worked for the intelligence agencies of Pakistan.

The opinions expressed in these meetings reflected many disquiting trends. The trends indicated:

(i) that the National Conference leadership should not oppose the proposed plebiscite in the State and accordingly should not accept the inclusion of the State into the territorial jurisdiction of India;

(ii) that India was dominantly a Hindu majority State and the Muslims of Kashmir would loose their identity if the State was integrated into the constitutional organisation of India in which the Hindus would always enjoy dominence;

(iii) that the Muslims majority character of the State should not be impaired and the only safeguard to protect it would be to keep the State out of the constitutional organisation of India;

(iv) that the convocation of the Constituent Assembly would be premature and it should be convened after the final decision with regard to the accession was reached, and the part of the State on the other side of the cease-fire line was reunited with the State; and

(v) the Interim Government should draw up a constitution for the State for the time being.

The Conference leaders, largely agreed with the views that the State should not be integrated in the territorial jurisdiction of the Union of India or its constitutional organisation. Most of the Conference leaders emphasised that the Muslim majority character of the population of the State, could be the only basis for any durable relations between the State and the Government of India. The Conference leaders evolved several 'basic principles', on which, the Conference leaders claimed, the future relations between the Union of India and the State could be based. The principles underlined:

(i) the State would not be included in the territorial jurisdiction of the Union of India, nor would it be included in its constitutional organisation;
(ii) the constitutional relations between the Union of India and the State would be confined to stipulations of the Instrument of Accession;
(iii) the administrative control over the State armies should be restored to the State Government;
(iv) the Constituent Assembly of the State would draw up the constitution of the State which would envisage provisions pertaining to the nature of judicial review, the quantum of individual freedom and rights and the related legal guarantees, principles of the state policy and elections to the representative bodies envisaged by the constitutional; and
(v) the Constituent Assembly of the State would not be vested with any powers to change and modify the existing constitutional relations between the Union of India and the State.

**Article 306-A**

The Drafting Committee of the Constituent Assembly of

India drew up a separate set of constitutional provisions for the Jammu and Kashmir State. The provisions were embodied in the draft Article 306-A of the Constitution of India. The provisions of the draft Article 306-A were based upon the principles which had been agreed upon in the Conference held in Delhi in May 1949. In September 1949, the draft provisions were sent to the Conference leaders for their consideration. The draft provisions stipulated:

(i) the provisions of the Constitution of India in regard to the other acceding States would not apply to Jammu and Kashmir;

(ii) the provisions of the Constitution of India in respect of:

  (a) territories of the Union of India,

  (b) Indian citizenship;

  (c) fundamental rights and related Constitutional safeguards; and

  (d) the principles of State policy, would be extended to Jammu and Kashmir;

(iii) the other provisions of the Constitution of India would apply to the State after mutual agreement between the Indian Government and the State Government;

(iv) the division of powers between the Union and the State would be governed by the stipulations of the Instrument of Accession, and the provisions of Seventh Schedule of the Constitution of India, dealing with division of powers between the Union Government and the provinces and the federating States, would not apply to Jammu and Kashmir.

(v) Such other subjects as would be agreed upon between the Union Government and the State Government would be transferred to the Union by a proclamation of the President of India;

(vi) Powers would be vested with the President of

> India to modify, restrict or suspend the operation of the provisions of Article 306-A on the recommendations made by the Constituent Assembly of Jammu and Kashmir State.

The Conference leaders had already made up their mind to repudiate the agreement reached with the representatives of the Government of India in May 1949. They referred the draft provisions, envisaged in the draft Article 306-A, to the Working Committee of the Conference to consider it. The Working Committee sat through several sessions and as was expected, rejected the draft provisions. The Working Committee refused to accept that the provisions in regard to Jammu and Kashmir would be transitional in nature and would be subject to the modifications which were brought about by the Constituent Assembly of the State. The Committee disapproved of the application of any provisions of the Constitution of India to the State, except those corresponding to the Instrument of Accession. The Committee expressed fear that the application of the provisions of India, in regard to the Indian citizenship, fundamental rights and related legal guarantees, would prejudice the domicilliary rules in regard to the State-Subjects, in force in the State.

Almost all the Working Committee members disapproved the agreement reached between the Conference leaders and the Central leaders at Delhi in May, and characterised it as a surrender by the Conference leaders on the issue of the freedom of their people which they claimed "was won after great sacrifices and could not be bartered away, by anyone, however high and mighty he was". Evidently, the members of the Working Committee gave expression to the decisions their leaders had already taken.[21]

The Hindu and the Sikh members of the Working Committee watched its proceedings in helplessness. They kept quite out of sheer self-interest for in the decision making clusters of the National Conference they weilded little

influence. Few of the Conference leaders registered their disagreement with the decisions of the Working Committee. Members of the Working Committee, representing the Jammu province, knew well that the people of Jammu would not support any move to exclude the Jammu and Kashmir State from the constitutional organisation of India. But they too concured with the decision of the Working Committee without any protest.

Sheikh Mohammad Abdullah communicated the decision of the Working Committee to Gopalaswami Ayangar on 12 October 1949. Abdullah informed Ayangar that the Working Committee of the Conference did not approve the Constitutional provisions incorporated in draft Article 306-A. "He informed Ayangar that the Working Committee had disapproved of the application of the Constitution of India to the State except in respect of those provisions which corresponded to the terms of the Instrument of Accession, Abdullah informed Ayangar that the Working Committee expressed fears, that the application of the Provisions of the Constitution of India, pertaining to the Indian citizenship, the fundamental rights and the Directive Principles of the State Policy would prejudice the domicilliary State-Subject Rules. Sheikh Mohammad Abdullah sent an alternative draft to Gopalaswami Ayangar, which stipulated the application of only such provisions of the Constitution of India to the State, as corresponded to the stipulations of the Instrument of Accession". He added a stipulation to his draft, which defined the State Government as "the Ruler of the State acting on the advice of the Council of Ministers appointed under the proclamation of the Maharaja dated 5 March 1948".

The communication from Sheikh Mohammad Abdullah flubergasted Ayangar, who was confronted with a complete reversal of the stand the National Conference had taken earlier. He had a long meeting with Abdullah and Mirza Afzal Beg. He told the Conference leaders that the draft Article 306-A incorporated provisions, which envisaged a separate

Constituent Assembly for Jammu and Kashmir State, to frame a constitution for its government. He assured them that the State Government would be reserved all the powers, except those transferred to the Union Government by the Instrument of Accession. "However, he told the Conference leaders, that the "Accession of the State underlined that the State would be brought with the broad structure of the imperatives, the Constitution of India envisaged." Ayangar told them that the draft was strictly based upon the stipulations of the agreement with Conference leaders, reached in the Delhi Conference in May 1949, and there was nothing in it which impinged upon the authority of the State.

The Conference leaders, refused to accept any change in the stand the Working Committee had taken on the draft provisions and told Ayangar that they were not in a position to accept any modification of the decision of the Working Committee. They told Ayangar, rather bluntly, that "the State had acceded to India in regard to only three subjects: foreign affairs, defence and communications and retained its independence in all other aspects". The Conference leaders told Ayangar, rather bluntly, that the Muslims in Jammu and Kashmir had supported the accession of the State to India on the understanding that they would be ensured a political organisation, which would give expression to their aspirations. The Conference leaders told Ayangar that since they were responsible to the people, they would not be able to accept the draft provisions embodied in Article 306-A.

Ayangar fumbled. He did not possess the determination to deal with the Conference leaders with any firmness. His outlook was confined to the colonial traditions of the British empire in India which, during his life, he had spared no efforts to serve. Nehru was away in the United States. Ayangar dreaded to antagonise Sheikh Mohammad Abdullah and the other leaders of the National Conference. The Indian leaders, still believed that the National Conference leaders held the key to the plebiscite in the State and therefore, the Government

of India could not affort to estrange them.

Ayangar made a fateful change in the draft provisions of Article-306-A and deleted fundamental rights and the legal safeguards from the provisions of the Constitution of India, proposed to be made applicable to the State. He prepared a new draft, which envisaged the application of only the provisions, of the Constitution of India, pertaining to the territorial jurisdiction of the Union, and the Indian citizenship, to the State. Ayangar wrote to Sheikh Mohammad Abdullah: "I enclose a draft of Article 306-A with the language of it readjusted so as to meet practically all your points". He added, "I do hope you will appreciate the gesture I am making. If you are agreeable to this new draft being substituted for the one of which the Drafting Committee has already given notice, I shall ask the Drafting Committee to give notice of this draft in substitution of the other one. Personally I should like you to move this draft yourself in the House. We shall be there to support you, and I hope the debate would be maintained at such a high level that a report of it when cabled to America, will have an effect on the discussions of the Kashmir problem, that may be there going on which will be of the maximum help to Pandit ji."[22]

The Indian leaders had learnt no lessons from the reverses they had faced in the United Nations. How could a debate on the constitutional provisions, which virtually excluded Jammu and Kashmir from the constitutional organisation of India on the basis of the Muslim majority character of the population of the State, help Nehru in his deliberations with whoever he met in the United States of America? In fact, the exclusion of the Jammu and Kashmir from the secular political organisation of India, was a triumph for Pakistan, since the acceptance of the separate Muslim identity of the Jammu and Kashmir tantamounted to the tacit recognition of the League demand for a separate Muslim nation in India. "If Ayangar sought to please Nehru, he should have realised that no one in America would have applauded him for having

framed the draft provisions of Article 306-A and having condemned the people of the State, particularly the Hindus, the Sikhs and the Buddhist minorities, to servitude and suffering. Ayangar had served the State as the Prime Minister to Maharaja Hari Singh for more than six years and he was aware of the intricate balances of community demands, regional pressures and amorphous class interests which characterised the political sociology of the State. He, as well as Nehru, had ample experience of the ruthless severity with which the Conference leaders had sought to reorganise these balances to establish fresh alignments which ensured political precedence for the Muslims."[23]

Ayangar wrote to Patel about the modifications, he had made in the draft provisions of Article 306-A. Perhaps, aware of the adverse reaction of the States Ministry, Ayangar claimed that the revised draft provisions did not prejudice the basic ingredients of the draft Article 306-A. Gilding the perfidy he wrote to Patel; "Sheikh Abdullah and two colleagues of his had a talk with me for about an hour and a half this morning. It was a long drawn out argument and, as I told you this morning, there was no substance at all in the objections that they put forward to our draft. At the end of it all, I told them that I had not expected that, after having agreed to the substance of our draft both at our house and at the manner they were attempting to do so. In answer, Sheikh Abdullah said that he felt very grieved that I should think like so but that in the discharge of his duty to his own people he found it impossible to accept our draft as it was." Ayangar wrote to Patel; "I have since thought over the matter and dictated a draft which, without giving up essential stand we have taken in our original draft readjusts it, in minor particular in a way, which I am hoping Sheikh Abdullah would agree to."

Patel did not favour the changes Ayangar had brought about in the draft provisions. He did not approve of the omission of the fundamental rights and related legal safeguards and the Directive Principles of the State Policy from the

provisions of the Constitution of India, which were proposed to be extended to Jammu and Kashmir. Patel visualised the consequences to which the deletion of the fundamental rights and Directive Principles of the State Policy, from the draft approved by him and his colleagues as well as the Conference leaders, would lead to. "I find" he wrote to Ayangar reproachfully," there are some substantial changes over original draft, particularly in regard to the applicability of fundamental rights and Directive Principles of State Policy. You can yourself realise the anamoly of the State becoming a part of India at the same time not recognising any of the provisions." Patel pointed out that he did not like the way Sheikh Mohammad Abdullah had wriggled out of his commitments to the fundamental principles, which he had agreed to in a meeting with him and his other party colleagues. "I do not at all like any change", Patel wrote to Ayangar, "After our party had approved of the whole arrangement in the presence of Sheikh Sahib, himself. Whenever Sheikh Sahib wishes to back out, he always confronts us with his duty to the people of course, he owes a duty to India or the Indian Government, or even on a personal basis, to you and the Prime Minister who have gone all out to accommodate him". Patel, categorically refused to recognise the prudence of the changes Ayangar had made in the draft. He wrote; "In these circumstances any question of my approval does not arise. If you feel the right thing to do, you can go ahead with it."[24]

Ayangar, perhaps, keen to arrive at an agreement with the Conference leaders, lest he fell from the favour of Nehru, ignored the machinations of the Conference leaders, who were actually seeking to shift from one position to another to ensure that the State was not included in the Union of India, particularly in its territorial jurisdiction as well as its constitutional organisation. To his discomfiture, however, the Conference leaders, did not approve his revised draft as well. Sheikh Mohammad Abdullah wrote to Ayangar, that neither he nor his colleagues in the National Conference

would accept the revised draft provisions. The National Conference, Sheikh Mohammad Abdullah informed Ayangar, could not accept any provision of the Constitution of India, except within the framework of the stipulations of the Instrument of Accession. He sent an alternative draft, prepared by Mirza Afzal Beg, to Ayangar. Beg's draft did not envisage the application of any provision of the Constitution of India to Jammu and Kashmir. Sheikh Abdullah wrote to Ayangar that the alternative draft "went for beyond the sphere in respect of which we had acceded to India". Beg hurried to give notice to the Constituent Assembly of an amendment in draft Article 306-A, which in effect, sought to restrict the draft provisions to the terms of the Instrument of Accession.

The provisions of the draft proposed by the Conference had a similar portent. The Conference leaders sought to create a separate State of Jammu and Kashmir on the territories of India, which did not form a part of Indian Union, its territories, its political organisation and its national identity. In accordance with their draft, the relations between Jammu and Kashmir and the Indian Union would be governed by the terms of the Instrument of Accession and since the Instrument of Accession was subject to a plebiscite, the future relations of the State with India would, obviously be subject to the vote of the Muslims of the State.

The Conference leaders were involved in the most subtle and treacherous manoeuvre, which was aimed to use the proposed plebiscite as a lever to pull out the State from India. They presumed that the United Nations resolutions had rendered the Instrument of Accession, accomplished by Hari Singh, into a conditional act and they could force on India, a political settlement, which would ensure the independence of the State, with its borders guaranteed by Pakistan and its western allies. The national Conference leaders, planned to found a second Muslim State in India, which indeed, was more Muslim than the Muslim homeland of Pakistan.

Ayangar met the Conference leaders and tried to persuade them to accept his draft. The Conference leaders refused to relent. Ayangar drew up a fresh draft in consultation with Mirza Afzal Beg. Sheikh Mohammad Abdullah, who had deputed Beg to negotiate with Ayangar, pulled the strings behind the curtain. The revised draft prepared by Ayangar, stipulated:

(i) no provisions of the Constitution of India would apply to the State, except that the State would be included in First Schedule of the Constitution of India, which defined the territories of the Union of India;

(ii) the division of powers between the Indian Union and the Jammu and Kashmir State would be determined in accordance with the terms of the Instrument of Accession;

(iii) the Constituent Assembly of the State would be empowered to recommend to the President of India, the termination of the operation" of the special constitutional provisions pertaining to the State;

(v) the State Government would be construed to mean the Maharaja acting on the advice of the Council of Ministers appointed under his proclamation dated 5 March, 1948.

The draft provisions drawn up by the Ayangar and Beg were circulated in the Constituent Assembly of India on October 16, 1949. Several members of the Constituent Assembly objected to the definitions of the State Government on the ground that the definition virtually envisaged an Interim Government in perpetuity. They pointed out to Ayangar that the draft provisions excluded all subsequent State Governments, from the ambit of the Constitution of India. Ayangar modified the explanation to redefine the Government of the State," as the person for the time being recognised by the President as the Maharaja of Jammu and Kashmir acting

on the advice of the Council of Ministers for the time being in office under the Maharaja's Proclamation dated the fifth day of March 1948."

Ayangar informed the Conference leaders of the change in the definition of the States Government on the morning of 17 October. The Conference leaders reacted sharply against the change in the definition of the State Government and informed Ayangar that they would in no case, accept any modification in the provisions. Ayangar assured the Conference leaders that the revised definition of the State Government was deemed necessary to remove the anamoly in draft provisions of Article 306-A, which envisaged a Interim Government in perpetuity. The Conference leaders, however, refused to accept any change in the definition of the State Government, they had proposed. Beg had surrptitiously, incorporated the explanation defining the State Government in the draft to forge the Interim Government into an instrument of authority which was not subject to any imperatives of authority created by the Constitution of India. Hari Singh was gone. The Interim Government was law unto itself.

The Conference leaders threatened Ayangar that if the changes in the draft provisions were not withdrawn, they would move an amendment, of which they had given notice to the Constituent Assembly. Ayangar was caught in a quandry, but he was unable to oblige the Conference leaders. Ayangar moved Article 306-A for the consideration of the Assembly the next day. "The Conference leaders sulked away and did not join the debate on the draft provisions. They joined the deliberations of the Assembly after Ayangar had already delivered a part of his speech." Inside the House, the Conference leaders sat glumly watching the proceedings in grim silence. After Ayangar had completed his speech, the President of the Assembly "waited for a minute or two for members to rise for making speeches before he put the draft to the House". The members of the Assembly expected the Conference leaders to join the debate on the draft provisions,

which they believed would provide enough proof of the sincerity of the Government of India to accommodate a Muslim majority State, in its federal organisation . No one knew that the Conference leaders, had initiated a process which was aimed to secure a constitutional organisation for the State, independent of the Indian Union as well as the Indian State. "The Conference leaders did not rise to speak and did not move any amendment to the draft. The draft was adopted by the Assembly without any dissent".[25]

The Conference leaders believed that Ayangar and the other Indian leaders would not dare to disregard their stand on the draft provisions. Angered up by the turn of the events in the Constituent Assembly, Sheikh Mohammad Abdullah sent a sharp rejoinder to Ayangar demanding the repeal of the decision, the Constituent Assembly had taken. He threatened to resign from the Assembly along with the other members representing Jammu and Kashmir, if the Assembly did not revoke its decision on the provisions in respect of the Jammu and Kashmir State. "As I had told you before," Sheikh Mohammad Abdullah wrote to Ayangar," I stand my colleagues have been extremely pained by the manner in which the thing has been done, and, after careful consideration of the matter we have (arrived) at the conclusion that it is not possible for us to let the matter rest here. As I am genuinely anxious that no unpleasant situation should arise, I would request you to see if even now something can be done to rectify the position." Abdullah warned Ayangar, "In case I fail to hear from you within a reasonable time, I regret to say that no course is left open to use but to tender our resignation from the Constituent Assembly."[26]

For Ayangar, the communication from Abdullah was a bolt from the blue. "He had gone to the farthest limits to accommodate their views. He could not retrieve the ground he had lost, but it was evident that he could not go any further to appease the Conference leaders".[27]

The exclusion of the State from the constitutional organisation of India, did incallable harm to India as well as the Jammu and Kashmir State, and the damage could not be repaired during the years that followed. It led to the communalisation of the society and government in the State, which in the long run prepared the foreground for the consolidation of Muslim separatist and secessionist forces. Ayangar was unable to see beyond his time.

Ayangar wrote to Abdullah that he and his colleagues could take such steps as the rules of the House allowed for any rectification of the draft provisions. But he forewarned them that their resignation from the Constituent Assembly would have serious repercussions in Kashmir as well as in the country as a whole. "I do not consider", he wrote to Sheikh Mohammad Abdullah, "that there is any justification for your entertaining any idea of resignation from the Constituent Assembly. The step, if taken, would produce the most unwelcome and serious repercussions in Kashmir, India and the World, and I must ask you to communicate with the Prime Minister before you decide on anything like it. I shall pass on to him your letter and this reply of mine to it."[28]

Ayangar wrote to Sheikh Mohammad Abdullah, "It is true that after having unsuccessfully attempted along with Maulana Azad, to persuade you to agree willingly to substitution of the words, "for the time being" for the word, "appointed" I did move the Article with the amendment after obtaining the permission of the President to do so. The whole House accepted this. I am sorry that you could not move any amendment of your own against the one, I moved. There was, however, nothing to prevent you or any of your colleagues from opposing the amendment that I did move, and as a matter of fact, we were looking forward to your making a speech on the whole of the Article and believe the President waited for a minute or two for members to rise for making speeches before he put the draft article to the House."[29]

The Conference leaders did not resign from the Constituent Assembly. But, after the draft Article 306-A, was adopted by the Constituent Assembly, they set out to wreck the constitutional arrangement envisaged by it. The Conference leaders were opposed to the inclusion of the Jammu and Kashmir State in the territories of the Indian Union and actually visualised a separate territorial and constitutional organisation of the State, which was linked with the Union of India by the Instrument of Accession. They sought to block the passage of the draft article 306-A by insisting upon an Interim Government in perpetuity. In the days that followed, the Conference leaders, spared no efforts to prepare the ground for the exclusion of the State from the territorial jurisdiction of India as well as the provisions of the Constitution of India, extended to the State by virtue of Article 306-A.

**State Apart**

The draft Article 306-A was renumbered Article 370, at the revision stage. On 25 November, 1949, Karan Singh, the Regent of the State issued a proclamation by virtue of which he ordered that the relations between the State and the Union of India would be governed by the Constitution of India.

The provisions of the Constitution of India applicable to Jammu and Kashmir were divided into two parts; Article I and Article 370. Article I described the territories of the Union of India and its constitutional jurisdiction. Jammu and Kashmir was listed in the First schedule of the Constitution of India along with the other acceding States and the Provinces of the Dominion of India, which were constituted into the Indian Union.[30]

Article 370 envisaged an absolute limitation on the application of the provisions of the Constitution of India to the State. The powers of the Parliament to Legislate in regard to Jammu and Kashmir were limited to the subjects declared by the President of India to correspond to the terms of the

Instrument of Accession. The Jammu and Kashmir State was not included in the scheme of the division of powers, between the Union and the States, embodied by the Constitution of India.

Article 370 of the Constitution was included in the temporary and transitional provisions of the Constitution of India. Evidently, the special position the State was accorded to the Jammu and Kashmir State was presumed to be of a temporary nature, and subject to change. Provisions were incorporated in Article 370 by virtue of which the President of India was empowered to;

(i) transfer powers to the Union in regard to such other subjects in the Union List and the Concurrent List of the Seventh Schedule of the Indian Constitution, which the President specified with the concurrence of the State Government;

(ii) extend to the State the provisions of the Constitution of India, which were saved application to the State with such modifications and exceptions as the President would specify.

The President was empowered to issue such orders in consultation with the State Government and in case such order related to the matters in the Instrument of Accession, with the concurrence of the State Government. If any such orders which involved the transfer of additional powers to the Union of the application of any further provisions of the Constitution of India to the State, were promulgated by the President before the Constituent Assembly of the State was convened, the consultation and concurrence of the State Government were to be placed before the Constituent Assembly for its approval.

The President of India was also empowered to declare by public notification that the provisions of the Article would cease be in operation in the State or would be operative only

with such exceptions and modifications as he would specify. All such notifications were to be promulgated by the President on the recommendations of the Constituent Assembly of the State.

An interesting aspect of Article 370 was that it envisaged a Constituent Assembly in the State, with a tenure, which extended at least, till the transitional provisions remained on the statute-book. The fathers of the Indian Constitution reasonably presumed that the temporary provisions envisaged by Article 370, would last for a relatively short duration and their operation would hardly extend beyond the time the Constituent Assembly of the State would take to draft the Constitution of the State. The Constituent Assembly of the State was dissolved in 1957, after it had completed the task of framing the Constitution of the State.

Article 370 did not vest any constitutive powers with the President nor were any constitutive powers vested with the Constituent Assembly of Jammu and Kashmir. The President and the Constituent Assembly were empowered to order that the operation of the provisions of Article 370, would cease or continue with such amendments and exceptions as they would specify. They were subject to the limitations which one placed on the other. As a matter of fact the Constituent Assembly of the State could not be vested with powers to amend or alter the provisions of the Constitution of India.

Provisions to abrogate or amend Article 370 were incorporated in the Constitution of India.[31] The powers to amend the provisions of the Constitution of India were vested with the Parliament of India in accordance with the procedure laid down in it. Article 370 envisaged no limitation on the powers of the Parliament to amend its provisions or any other provision of the Constitution of India. Even if any such limitation were incorporated in Article 370, there was nothing which stood in the way of the Parliament to abrogate the

limitation as well as the provisions of Article 370.

## REFERENCES


1. Maharaja Hari Singh, *Instrument of Accession*, 26 Oct. 1947.
2. M.K. Teng, C.L. Gadoo, *Kashmir Greater Autonomy*, pp. 2-3.
3. Sardar Patel's Statement, *White Paper on States*, Govt. of India.
4. Sardar Patel's *Correspondence* Vol. I, p. 132.
5. M.K. Teng, *Article 370*, p. 47.
6. *Ibid.*
7. Sardar Patel's Correspondence, pp. 266-67.
8. *Ibid.*
9. *Ibid.*, pp. 262-263.
11. *Ibid.*
12. *Ibid.*, pp. 267-268.
13. *Ibid.*, p. 269.
14. *Ibid.*, p. 272.
15. Sheikh Mohammad Abdullah, Inaugural Address to the Constituent Assembly of Jammu and Kashmir, *Kashmir, Constitutional History and Documents*, pp. 549.
16. *Ibid.*
17. Vanaja Rangswamy, *Story of Integration of States*, p. 245.
18. M.K. Teng, *Article 370*, p. 59.
19. *Sardar Patel's Correspondence*, Vol. I, p. 276.
20. *Ibid.* p. 274.
21. Syed Mir Qasim, *Savani Hayat*; (vern.).
22. *Sardar Patel's Correspondence*, Vol. I, pp. 304-5.
23. M.K. Teng, *Article 370*, p. 71.
24. *Sardar Patel's Correspondence*, p. 305.
25. M.K. Teng, *Article 370*, p. 74.
26. Sardar Patel's Correspondence, pp. 307-8.
27. M.K. Teng, *Article 370*, p. 74.
28. *Sardar Patel's Correspondence*. Vol. I, p. 309.
29. *Ibid.*
30. Constitution of India, Article 370.
31. *Ibid.* Article 368.

## CHAPTER - 3

# *Quest for Independence*

After the Constitution of India was brought into force in January 1950, the Conference leaders, who had by now abandoned their earlier commitment to the unity of India, launched a surreptitious campaign to wreck both, the accession of the State to India as well as Article 370. The Conference leaders adopted a three pronged strategy to achieve their objectives: first, they shifted emphasis on their assertion that the accession of the State was subject to the final decision of the Muslims of the State and a settlement of the dispute over its accession could not ignore their aspirations. They claimed that the United Nations resolutions envisaging a plebiscite, to provide the Muslims a choice to exercise the option in respect of the accession of the State, and their right to their choice was neither controverted by the Instrument of Accession, Hari Singh had executed, nor by Article 370. Secondly, they insisted upon the separate Muslim identity of the State, which they claimed could be realised in a separate political organisation independent of the imperatives of the Indian Constitution and governed by a set of political instruments which reflected the aspirations of the Muslims and which were evolved by them. Thirdly, the National Conference initiated a process of the Muslimisation of the State to ensure the communal precedence of the Muslim majority in the government and society of the State.

The enforcement of the Muslim precedence in the government and society of the State led to the devastation of the Hindus and the other minorities. The Interim Government

undertook drastic reorganisation of the property relations in the State, which it alleged, were fostered by the Dogra Hindu rulers to serve the interests of their correligionists. The allegations were, however, unfounded, because the economic organisation of the State, mainly feudal in its content, was dominated by an agrarian oligarely and assortment of interests, in which the Muslims shared the spoils as much, the Hindus did. The industrial classes in Kashmir, the shawl-wool importers and the commercial magnates who traded in famous Kashmiri shawls were the Kashmiri Muslim Khojas. Silk manufacture was a state monopoly, but the manufacture of all textiles, arts and crafts and forestry were in the hands of the Muslims, who were as close to the Dogra centre of power as the Hindu ruling elite was.

The allegations of the exploitation of the Muslims, the National Conference, levelled against the Dogras, were fundamentally inspired by the Muslim extremism which grew in India with the evolution of pan-Islamic movements after the First World War.

The Interim Government, aimed to dissolve the assortment of middle-class interests, which the Dogras had nurtured by a new class, which was essentially Muslim. Within a few years the new Muslim middle established its domination over the entire economic organisation of the State. When the National Conference, finally repudiated the accession of the State to India and demanded the right of self-determination for the Muslims in the State, the Muslim middle class provided the main support base, for the Muslim secessionist movements, which the Conference leaders spearhead for decades later.

The National Conference leaders unfolded their plans in October 1950. They called into session the General Council of the Conference. The General Council adopted a resolution which issued a directive to the "Supreme National Executive," evidently, the Interim Government, to convene the Constituent Assembly of the State. The Council adopted a resolution

which stipulated. "The All Jammu and Kashmir National Conference" is gravely concerned and cannot any longer afford to ignore the perpeteration of these conditions of doubt and frustration. In the opinion of the General Council, time has come, when the initiative must be regained by the people to put an end to this indeterminate state of drift and indecision. The General Council recommends to the Supreme National Executive of the people to take immediate steps for convening a Constituent Assembly based upon adult sufferage and embracing all sections of people and all the constituents of the State for the purpose of determining the future shape and applications of the State of Jammu and Kashmir. In this sovereign assembly, embodying the supreme will of the people of the State, we shall give to ourselves and our children a Constitution worthy of the tradition of our freedom struggle and in accordance with the principles of New Kashmir".[1]

The resolution of the General Council brought to surface, several disquiting developments inside the National Conference. Neither the Instrument of Accession, nor Article 370 of the Constitution of India, which embodied provisions for the Constituent Assembly of the State, vested powers in any subsidiary instruments to determine the disposition of the State in respect of its accession. Evidently, the claim to powers, plenary to the Constituent Assembly, to determine the future of the State amounted to the repudiation of the act of the accession of the State to India, accomplished by Maharaja Hari Singh, as well as the provisions of Article 370, which vested powers with the Constituent Assembly of the State to draft a constitution for its government.

The resolution embodied several questionable propositions:

(a) the resolution of the General Council suddenly proclaimed the Interim Government as the "Supreme National Executive of the people" and claimed for it the power to convene the Constituent

Assembly of the State and bring to an end, the "indeterminate state of drift and indecision", prevailing in the State;

(b) the resolution envisaged powers for the Constituent Assembly to determine the future affiliations of the State, which neither the Instrument of Accession nor the Constitution of India vested in it;

(c) the resolution visualised a separate nation of Jammu and Kashmir, which enjoyed a perpetual right to determine its future affiliations, irrespective of the accession of State to India, the dispute with Pakistan and the inclusion of the State in the territorial jurisdiction of the Indian Union by virtue of Article 370.

The Conference leaders sought to liberate the Interim Government of its provisional mornings and established its preeminence over all other political instruments in the State, including those embodied by the Jammu and Kashmir Constitution Act of 1939, which governed its function. "The Conference leaders sought to vest in the Constituent Assembly, powers which the Constitution of India did not envisage, and thus impart to it, precedence over the constitutional instruments devised by Article 370 of the Constitution of India. They also attempted to place themselves in between India and Pakistan in their dispute over the accession of the State and secure the Interim Government a vote on any settlement which the Government of India reached with the Security council or the Government of Pakistan.

The Conference leaders, indulged in double-talk, which later became the main feature of their political outlook and while on the one hand they accepted that they supported the accession of the Jammu and Kashmir State to India, they proclaimed the Muslims of the State as a Muslim nation in India, which had a right to freedom and choice to determine its future, irrespective of the instrument of Accession, Maharaja

Hari Singh had signed. Many of the Conference leaders openly claimed that the right of self-determination, embodied by the United Nations resolutions, left the choice open for the Muslims of the State to determine its future affiliations and the Muslims would in no case abnegate from the rightful obligation to exercise it. The Conference leaders, accused the Hindu communal forces in India, which sought to merge the State into the Indian constitutional organisation to end the Muslim majority character of its population and bring about its subjection to the dominance of the Hindu majority in India. In closed door meetings, the Conference leaders, claimed that:

(i) the Muslims of Jammu and Kashmir were a nation and Jammu and Kashmir State had a separate identity, which could not be effected by the accession of the State to India;

(ii) the Muslims of Jammu and Kashmir had a right to determine the future affiliations of the State and they could opt for independence of the State in place of its accession to India or Pakistan;

(iii) peace between India and Pakistan could only be ensured by the recognition of the right of the Muslims of the State to determine its future;

(iv) the Muslims of Jammu and Kashmir did not accept any constitutional arrangement which fettered the freedom of the Muslim nation of Kashmir;

(v) the inclusion of the State in the territorial jurisdiction of India and the application of the provisions of the Constitution of India corresponding to the terms of the Instrument of Accession, were ultimately subject to the sovereignty of the Jammu and Kashmir State.

The Conference leaders contended that the accession of the State to the Indian Dominion was strictly limited to the delegation of powers to the Dominion Government, stipulated

by the instrument of Accession. The Conference leaders insisted that the accession of the State did not involve the dissolution of its sovereignty which had reverted to it with the lapse of the Paramountcy and merger of its territories in the territories of the Indian Dominion. The Conference leaders refused to recognise that the technical independence assumed by the State with the lapse of Paramountcy had ended with their accession to India. They refused to accept that the accession of the Princely States to either of the two Dominions, entailed the merger of their sovereignty and territories with the Dominion to which they acceded.

The Indian leaders, were perhaps unable to perceive the real motives behind the General Council resolutions, and the damage, the duplicity of the Conference leaders caused to the public mind in the State. Whereas the Muslims were gradually awakened to the awareness of a new future, which promised a second Muslim homeland to them in Jammu and Kashmir, after the creation of Pakistan, the Hindus and the Sikhs as well as Buddhists in Ladakh, were quickly led to the realisation of their doom, which a second partition of India would unfold. In the Muslim homeland of Jammu and Kashmir, they would meet no better a fate than the Hindus and Sikhs had met in Pakistan and the occupied Kashmir.

For sometime, the Indian leaders fiddled with the idea of using the Constituent Assembly to controvert the various pressures which were building on the Indian Government in the Security Council. However, the inspiration to convene the Constituent Assembly did not come from them. Indeed, the resolution of the National Conference General Council caused considerable concern to the Indian leaders, and they lost no time to seek a number of clarifications from the Conference leaders in Srinagar. The demand to vest the powers to determine the future of the State in the Constituent Assembly was as preposterous as the claim to a separate nationhood for the Muslims of the State. "The Government of India had strongly resisted all attempts to question the accession of the State to

India and open fresh options for the future disposition of the State except that the act of the accession was subject to a referendum by which, India was committed to ascertain the wishes of the people of the State after the invading forces of Pakistan had withdrawn. This was precisely the ground on which the various proposals made by Own Dixon had been rejected by the Government of India."[2]

A long correspondence ensured between the States' Ministry of the Government of India and the Interim Government. The Conference leaders informed the States' Minister, Gopalaswamy Ayangar, that the Constituent Assembly of the State would function as a sovereign body, and;

(i) take a decision on the accession of the State;

(ii) determine the future of the Dogra rule;

(iii) draft a Constitution for the State Government. Ayangar did not question the powers of the Constituent Assembly to determine the future of the Dogra dynasty and draft the Constitution of the State but he expressed disagreement with the Conference leaders on their decision to empower the Constituent Assembly to review the accession of the State to India and the commitments which the Government of India had given in this regard.

Ayangar wrote to the Conference leaders that since the Constituent Assembly would draw up a Constitution for the State, it would be necessary to bring about a uniformity between the Constitution of the State and the Constitution of India. Ayangar urged upon the Conference leaders, that it would also be necessary to extend the application of the Constitution of India to the State with regard to the citizenship, fundamental rights and related legal safeguards, jurisdiction of the Supreme Court of India, the Directive Principles of the State Policy and the powers of emergency arising out of war, internal disturbances and Constitutional breakdown in the State.

The Conference leaders did not approve of the communication of the States' Minister. "They insisted upon the right of the Constituent Assembly of the State to take whatever decisions it deemed appropriate on the final disposition of the State and claimed that both the accession as well as commitments of the Government of India, were ultimately subject to the verdict of the people of the State. The Conference leaders reiterated their earlier stand that the Constituent Assembly would draw up a constitution for the Government of the State and incorporate in it the constitutional guarantees, directive principles of the state policy and emergencies arising out of threat of war and internal disturbance. The Conference leaders emphasised that the Constituent Assembly of the State alone was empowered to determine the final disposition of the State.

Ayangar was agitated by the stand the Conference leaders had taken. They had virtually repudiated their commitment to support the accession of the State to India and sought to link up the institution of the Constituent Assembly with the stipulations of the Security Council resolutions. In a subtle move the Conference leaders aimed to use the Security Council resolution to compel the Government of India to recognise the pre-eminent authority of the Constituent Assembly to determine the future disposition of the State and after that was achieved, opt for independence of the State as a viable alternative to its accession to either of the two contending powers, India and Pakistan. The Conference leaders insisted upon the exclusion of the State from the constitutional organisation of India as a matter of right, which they claimed was neither subject to the stipulations of the Instrument of Accession nor to the provisions of the Constitution of India, embodied in Article 370. The Conference leaders disclaimed the "Paper Accession" accomplished by Maharaja Hari Singh, which they insisted, could only be validated by the approval of the Muslims who formed the majority of the population of the State.

Ayangar did not approve of the Conference stand and informed the Conference leaders, that the Government of India could not accept proposals which contravened the stipulations of the Instrument of Accession and the provisions of the Constitution of India, applicable to Jammu and Kashmir. No sooner than the disapproval of the States Ministry was conveyed to the Conference leaders, they erupted into angry outbursts against the Indian leaders. Sheikh Mohammad Abdullah threatened to resign, in case the State's Ministry persisted in its stand, which he alleged was aimed to reduce the freedom of the people of the State and deny them the right to give themselves a constitution which reflected their aspirations.

The threat upset Ayangar, who sought the help of Maulana Azad and Rajagopalachari to end the tangle. Azad, who had always backed the demand of the National Conference leaders for the autonomy of the State advised Ayangar to act with restraint. On the advice of Azad and Rajagopalachari Ayangar sent a concilliatory note to the Conference leaders, assuring them that the Indian Government would honour their views and appealed to them not to take any precipitate action which would have an adverse effect on the interests of the State. Nehru was in London where he had gone to attend the Conference of the Commonwealth Premiers. He also wrote to Sheikh Mohammad Abdullah and assured him that he did not dispute the right of the people to determine the future shape of the State and its government. "I have no doubt" Nehru wrote to Abdullah, "that the will of the Kashmiri people must prevail in regard to every matter and it is they who will decide ultimately every question affecting the State".

**Constituent Assembly**

On 30 April 1951, Karan Singh, the Regent, issued a proclamation to order the convocation of the Constituent Assembly of the State. The Assembly, the proclamation stipulated, would be constituted of members, who were elected

by the people of the State on the basis of universal adult franchise and by secret ballot. The proclamation envisaged the division of the State into electoral districts and ordered the appointment of a Delimitation Committee to determine the territorial limits of each electoral district.[3]

The Delimitation Committee was constituted of five members with a High Court Judge as its Chairman. Justice M.A. Shahmiri was appointed the Chairman of the Delimitation Committee and the four other members were appointed from among the Deputy Commissioners of the Revenue Department of the State Government. For the purpose of delimitation of the electoral constituencies, the Delimitation Committee was instructed to take a population of forty-thousand people or as near as possible, as the basis of delimitation.

The proclamation of the Regent caused concern among the Hindus and the other minorities in the State. The pronouncements and the policies of the Interim Government hardly left them in any doubt about the intentions of the Interim Government. They did not misjudge the double-talk of the Conference leaders, who on the one hand commended secularism to the people in India and on the other hand insisted upon the separate Muslim identity of Jammu and Kashmir. Shahmiri was a suspect in their eyes, so were the other members of the Delimitation Committee. Two major Hindu political organisations, the Praja Parishad which represented the Hindus in Jammu and which was severely critical of the policies, the Interim Government followed, and the Kashmiri Purusharthi Sabha, representing the Hindu and Sikh refugees, who had escaped from the occupied territories of the State and the west Punjab and taken refuge in the State, expressed misgivings about delimitation. The Interim Government had shown little regard for the death and devastation they had suffered, and instead refused to settle them in the State.

The Praja Parishad demanded representation in the

Delimitation Committee. The request was turned down by the Government. The plea made by the Kashmiri Purusharthi Sabha was also ignored by the Government. The Sikhs also appealed to the Interim Government for adequate representation of their community in the Constituent Assembly on the ground that they were not properly represented in the State Legislative Assembly, Maharaja Hari Singh had established in 1934. Their appeal was also turned down by the Interim Government.

The Delimitation Committee acted on the behest of the National Conference leadership. Shahmiri had served Maharaja Hari Singh more faithfully than many of his officers, but he had shifted his loyalities to the Interim Government, after the change over in 1947. He was appointed the Constitutional Advisor to the Interim Government, by Sheikh Mohammad Abdullah for obvious reasons. The other members of the Delimitation Committee were mercenaries of the Conference, who possessed little initiative and independence to influence its function.

The whole State, including the territories occupied by Pakistan, was divided into one hundred electoral districts, each of which was proposed to be represented by one member in the Constituent Assembly. Twenty-five of the seats were reserved for the occupied territories, where the elections were proposed to be held, after the occupation forces of Pakistan were withdrawn.

The Kashmir province was divided into forty-three electoral constituencies and the Jammu province was divided into thirty constituencies. The frontier divisions of Ladakh and Baltistan were divided into two constituencies. The Delimitation Committee gave heavier wheightage to the Kashmir province, where each electoral constituency was delimited to represent around forty six thousand people. In the Jammu Province, each electoral constituency represented around fifty six thousand people,thus reducing the wheightage of the province

in the Constituent Assembly by three members. Since Jammu was a Hindu majority province, the delimitation of the constituencies ensured heavier electoral wheightage to the Muslims in Kashmir. The population of the Hindus and the Sikhs, which was sizable in Srinagar, Baramulla and Anantnag and which could have been delimited in a manner, to ensure a measure of representation to them in the Constituent Assembly, was neutralised by gerrymandering which the Delimitation Committee undertook in disregard of the principles of representative government.

One of the major issues in the controversy between Maharaja Hari Singh and the National Conference leadership, which indeed was the main reasons, that he lost his throne, was that he pleaded for the representation for the minorities in the Constituent Assembly, which he emphasised would follow the pattern of the representation of the minorities in the Constituent Assembly, of India. His contention had genuine basis, because the Congress leadership had accepted the principle of minority representation in the Constituent Assembly of India, since such representation was considered to be necessary to safeguard the interests of the minorities in the future constitutional organisation of India. Out of the 296 members of the Constituent Assembly, which represented the British Indian Provinces, the minorities were represented by 141 members. The representation was scheduled in the following manner:

| | | |
|---|---|---|
| 1. Hindus | : | 155 |
| 2. Scheduled Castes | : | 30 |
| 3. Muslims | : | 89 |
| 4. Christians (Indian) | : | 6 |
| 5. Backward Tribes | : | 5 |
| 6. Sikhs | : | 5 |
| 7. Anglo-Indians | : | 3 |
| 8. Parsis | : | 3 |

The Princely States were give a representation of 93 seats in the Constituent Assembly.

Hari Singh was humiliated and accused by the Conference leaders of seeking to perpetuate Hindu domination in the State. The Congress leaders, who had recognised the principle of minority representation in the Indian Constituent Assembly as basic to the protection of the minorities, joined the Conference to denounce the Maharaja. The Congress leaders failed to realise that the minorities in Jammu and Kashmir were required to be provided constitutional safeguards the same way, the minorities, including the Muslims, were ensured by the Constitution of India.

The electoral rolls were published on 4 June 1950. Forty-one Revising Registrars were appointed to hear and decide claims in regard to the registration of the voters. All the Electoral Registrars were appointed from the Special Tehsildars, who had been deputed by the State Government to implement the land reforms. Most of the Special Tehsildars were Conference proteges who had earned enough notoriety in the campaign of land grab which the Conference cadres had launched to deprived the Hindus of their landed property. Of the Electoral Registrars, twenty were appointed for the Jammu Province and one each for Ladakh and Kargil districts.

As the elections drew close, the National Conference tightened its hold over the entire election machinery. The parties and candidates seeking election to the Assembly in opposition to the official nominees of the National Conference complained of intimidation and interference by the Conference cadres as well as the State authorities. Most of the candidates charged the National Conference of using force and pressure to drive them out of the contest. The allegations were largely true, and the National Conference cadres, backed by the State administration, spared no efforts, to scuttle the opposition and push out its candidates from the elections and pave the way for the National Conference to establish its sway over the

Assembly. Many candidates in opposition, were administered threats and were compelled to withdraw from the elections. Many of the candidates were bought for a price, made good by the neo-rich lumpeons who formed the fulcrum of the new Muslim middle class, the Conference leaders had forged. Several of the candidates were physically prevented from filling their nomination papers.

In forty-one of the forty-three electoral constituencies not a single nomination paper was filed by candidates other than those nominated by the National Conference. In the two remaining constituencies of Habakadal and Baramulla, nomination papers were filed by Shiv Narayan Fotedar and Sardar Sant Sigh Tegh, the former a Hindu leader of Kashmir and latter an Akali Sikh leader, both seeking to secure representation for the small Hindu and Sikh minorities in the Constituent Assembly. However, the two leaders, were not able to stay in the fray for long and withdrew from the elections in protest. Sant Singh Tegh complained of official intereference in the elections and of unfair means. The officials of the State administration used force to compel him to abondon the contest. He alleged that the colour of his ballot boxes was changed in his absence and his voters were prevented from attending his election meetings by intimidating them and using force against them.

In the Jammu Province, the Praja Parishad nominated candidates for twenty seven of the thirty electoral constituencies, generally filling nomination papers of more than one candidate for each constituency. Forty-one of the forty-six nominations filed by the Parishad were rejected in all the twenty seven electoral Constituencies on one pretext or the other. In only three constituencies, the Parishad nominations were accepted. On 22 September 1951, the Working Committee of the Parishad adopted a resolution condemning the arbitrary action of the election authorities and gave an ultimatum to the State Government to reconsider the rejection of the nomination papers of the Parishad candidates, failing which

the Parishad threatened to boycott the elections. In a statement issued in the Indian capital, Delhi, on 6 October 1951, Pandit Prem Nath Dogra, the President of the Parishad, accused the Interim Government of having taken several arbitrary measures to pack the Assembly with the nominees of the National Conference. Pandit Dogra alleged that elections in the two provinces were staggered in order to be held on two different dates to provide an advantage to the National Conference. He also alleged that the gerrymandaring was used in the delimitation of the constituencies to dilute Hindu majority in many constituencies and turn them into Muslim majority constituencies. In his statement Prem Nath Dogra alleged:[4]

(i) that the schedule of holding elections in the two provinces of Jammu and Kashmir on different dates, fixed by the election authorities was aimed to provide the National Conference an advantage over the other parties;

(ii) that the delimitation of the electoral constituencies was undertaken by the Delimitation Committee in a manner, which used gerrymandering to turn many constituencies, where Hindus were in a majority, into Muslim majority constituencies;

(iii) that forty-one nomination papers filed by the Praja Parishad candidates were rejected by the election authority without any basis, and with a view to ensure advantage to the National Conference candidates;

(iv) that the official intereference in the elections was widespread and the whole machinery of the State administration was being used to help the candidates of the National Conference.

The Parishad leaders met Gopalaswamy Ayangar and urged upon him to take, effective measures to ensure freedom and fairness in the elections to the Constituent Assembly, which he emphasised, was of crucial importance to the State.

He complained to the State's Minister of the intimidation and pressure, Praja Parishad had been forced to face in Jammu and accused the Interim Government of interference in the elections. He apprised Ayangar of the ways and means, which had been used to reject the nomination papers of the Parishad candidates, by the concerned election officers, on the instructions of the Interim Government. Dogra appealed to the Indian Government to:-

(i) institute an independent inquiry into the rejection of the nomination papers of the Praja Parishad candidates in the twenty-seven constituencies in which the Parishad candidates had filed their nominations;

(ii) appoint a judge of the Supreme Court to supervise the elections in the State;

(iii) adopt measures to prevent the officials of the State Government from working for the National Conference candidates.[6]

The accusations,, the parties in opposition to the National Conference, made against the use of state power in the elections were not false. The National Conference leadership resorted to widespread use of force to intimidate the opposition to drive it out of the elections. Nominees of the opposition parties were administered threats dissuading them from filling their nomination papers, several of them humiliated in open public by slander and harrassment. The Conference cadres supported by desperados, who lay in wait for opportunities to serve their interests, paraded in the townships and the villages, in support of the Conference, piling columny on the candidates in the opposition. The more stubborn of them were subject to physical assault. The independent candidates, some of them backed by pro-Pakistan elements, were bribed and their supporters left high and dry.

Wherever, the Hindus and the other minorities put up candidates in opposition to the nominees of the National

Conference, they were accused of acting on the behest of the Hindu communal forces in India, which aimed to disrupt the secularisation of India, by embroiling Kashmir into communal turmoil. The Praja Parishad was charged of seeking to revive the Dogra rule, to perpetuate the enslavement of the Muslims with the active support of the Hindu communal parties in India. The Hindus in Kashmir, who bore the worst of the repression of the Interim Government for having oppressed the Muslims during the Dogra rule, received the full blast of the Conference anger, when they sought to join the election. Their sizable strength in a number of constituencies, where their population was larger and more compact, was diluted by the delimitation authorities by by gerrymandering. They were denounced as the lackeys of Hindus imperialism in India, who, supported by the Hindu Mahasabha and Rashtariya Swayam Sevak Sangh, were seeking to retrieve the position of power, which they had lost with the fall of the Dogras.

Not only Ayangar, but the other Indian leaders as well, had lost their hold on the political development in the State. No one in the Indian Government had the courage to question the policies, the Conference leaders followed. Ayangar and perhaps, several other Indian leaders as well were aware of the shift in the outlook of the Conference leadership and knew much about the underground manoeuvers to extricate the Conference from its commitments to support the accession of the State to India. Neither Ayangar, nor any other Indian leader, however, made any efforts to deal with any firmness, the drift in which the State was caught.

Instead, the Congress leaders, joined the National Conference to condemn the Praja Parishad agitation and blamed the Parishad of inciting communalism in the State, which otherwise, they claimed, symbolised the traditions of religious tolerance and secularism. "Perhaps, the Indian Government deliberately overlooked the dangerous portent of the ruthlessness with which the Conference leaders sought to pack the Constituent Assembly with their cadres and

supporters".

After frantic but vain appeals to the Indian leaders, the Praja Parishad leaders finally decided to boycott the elections. The Parishad leaders cabled to Nehru, Gopalaswami Ayangar and Maulana Syed Masoodi, the General Secretary of the National Conference, informing them of the decision of the Parishad to boycott the elections. Masoodi, campaigned for the National Conference. The decision of the Parishad to boycott the elections caused him little discomfort. He refuted the allegations the Parishad made against the Interim Government, and charged the Parishad leaders of opposing the convocation of the Constituent Assembly. Masoodi was an ardent supporter of the separate religious and political identity of the Muslims in the State and was loyally committed to Sheikh Mohammad Abdullah.

Masoodi was one among the few Conference leaders who refused to reconcile with the integration of the State with India. He was jailed in the Quit Kashmir Movement and released from the prison in Muzaffarabad, on 18 October 1947, three days before the invaders entered the town. The events that followed, were beyond his control. The invading armies moved into the Valley almost on his heels. In the crisis, into which the invasion pushed the national Conference, he found himself arraigned in opposition to Pakistan by the sheer force of History and much against his conscience. Had Pakistan not invaded the State, he would have counselled his colleagues to choose for an option, which did not necessarily involve accession to India. He visualised the creation of a Muslim State in Jammu and Kashmir, whether within the Muslim nation of pakistan or outside it. But he did not envisage the accession of the State to India, after the partition was accomplished. "If the State were not invaded", Masoodi stated in an interview, many years after the accession of the State to India, "we would have perhaps got time enough to take a dispassionate decision on the affiliations of the State and

avoided the crisis which enveloped the state. We could bring round India and Pakistan to accept a solution which would ensure the people of Kashmir their freedom with the friendly cooperation of both, India and Pakistan".[7]

Masoodi also supported the precedence of the Muslims majority as a basis of the future constitutional organisation of the State. He also made ceaseless efforts with the other Conference leaders to Muslimise the State and supported Sheikh Mohammad Abdullah in his efforts to isolate the State from India.

After the withdrawal of the Parishad from the elections, only tow independent candidates were left in the contest in the two constituencies of the Jammu province, Kahna-chak and Akhnoor. Parishad extended its support to both the independent candidates. The independent candidates, were however, defeated, and the Conference candidates returned from Kahna-chak as well as Akhnoor. Seventy-three of the Conference candidates were returned unopposed to the Constituent Assembly. The victory of the Conference candidates in Kahna-chak and Akhnoor, secured the National Conference all the seventy-five seats in the Assembly. A few days after, in a public congregation in the city of Srinagar, Sheikh Mohammad Abdullah, paraded the elected members of the Constituent Assembly, before thousands of Conference supporters, who had collected to witness the spectacle.

**Double Charge**

The Constituent Assembly commenced its first session on 31 October 1951. Maulana Masoodi was elected the pro-tem Chairman of the Assembly. Masoodi was also returned unopposed to the Constituent Assembly. The next day, Gulam Mohammad Sadiq was elected the President of the Assembly.

The first session of the Assembly was inaugurated by Sheikh Mohammad Abdullah, on 5 November 1951. In his inaugural address, Sheikh Mohammad Abdullah stated:

"You are the sovereign authority in this State of Jammu and Kashmir, what you decide has the irrevocable force of law. The basic democratic principle of sovereignty of the nation embodied ably in the American and French Constitutions, is once again given shape in our midst."

He added further:

> "We should be clear about the responsibilities that this power investes us with. In front of us is the decision of highest national importance, which we shall be called upon to take. Upon the correctness of our decision dependends not only the happiness of our land, and people, now, but the fate as well of generations to come."[8]

Sheikh Mohammad Abdullah listed the basic decisions the Constituent Assembly would have to take, as follows:

(i) frame the constitution of the State;
(ii) determine the future of the Dogra rule;
(iii) examine the issue of the compensation for landed estates, appropriated in consequence of land reforms legislation; and
(iv) determine the final disposition of the State in respect of accession.[9]

Sheikh Mohammad Abdullah observed that the Constituent Assembly would be guided by "highest principles of democratic constitutions of the world"; equality, liberty and social justice. "The rule of law as understood in the democratic countries of the world should be cornerstone of our political structure. Equality before the law and the independence of judiciary from the influence of the executive are vital to us. The freedom of the individual in the matter of speech, movement and association should be guaranteed; freedom of the press and of opinion would also be features of our constitution".[10] Referring to the federal relations between

the Jammu and Kashmir State and Union, Sheikh Mohammad Abdullah said: "The Constitution of India has provided for a federal Union and in the distribution of sovereign powers, has treated us differently from other constitutional units. With the exception of the items grouped under Defence, Foreign Affairs and Communications in the Instrument of Accession, we have complete freedom to frame our constitution in the manner we like. In order to live and prosper as good partners in a common endeavour for the advancement of our people, I would advise that, while safeguarding our autonomy to the fullest extent so as to enable us to have the liberty to build our country according to the best traditions of our people, we may also, by suitable constitutional arrangements with the Union, establish our right to seek and compel federal cooperation and assistance in this great task, as well as offer our fullest cooperation and assistance to the Union."[11]

Sheikh Mohammad Abdullah rejected the Dogra rule as an institution, "incompatible with the spirit and needs of modern times which demand an egalitarian relationship between one citizen and another". He said: "The supreme task of a democracy is the measure of equality of opportunity that it affords to its citizens to rise to the highest point of authority and position. In consequence monarchies are fast disappearing from the world picture as an anachronism. In India too, where before the partition, six hundred and odd Princes exercised rights and privileges of rulership, the process of democratisation has been taken up and at present hardly ten of them exercise the limited authority of the Constitutional heads of States".[12]

The Interim Government sought to legitimise the land grab, which the National Conference had undertaken in the garb of land reforms, to disinherit the Hindus of the landed property they possessed, by seeking a decision on the question of compensation to be paid to the land owners, for the land acquired from them. Sheikh Mohammad Abdullah stated in his inaugural address that the Constituent Assembly, being

the repository of the trust of the nation, would determine whether compensation would be paid, for the properietory rights in land extinguished by the land reform legislation. He observed "our land to tiller policy brought light to the dark houses of the peasantry, side by side, it has given rise to the problem of the landowners demand for compensation. The nation being the ultimate custodian of all wealth and resources; the representatives of the nation are truly the best jury for giving a just and final verdict on such claims".[13]

Sheikh Mohammad Abdullah finally unfolded the mind of the National Conference leadership on the issue of accession. He stated categorically that the final decision of the accession of the State lay with the Constituent Assembly, which being the representative body of the people of the State, would determine the future affiliations of the State. Sheikh Mohammad Abdullah, in effect, aimed to establish:

(i) the accession of Jammu and Kashmir to India by Maharaja Hari Singh, who had executed the Instrument of Accession was a conditional act, which created a transitional relationship between the State and the Dominion of India for the time being;

(ii) the Constituent Assembly alone, would take a decision on the accession of the State;

(iii) the repudiation of the finality of the Instrument of accession signed by the Maharaja, opened a fresh, choice for the Constituent Assembly to determine the options it would exercise in respect of the accession of the State.

In unambiguous terms, Sheikh Mohammad Abdullah, claimed the right of the Constituent Assembly, to exercise the options, which the Cabinet Mission Plan envisaged for the Princely States. His claim repudiated (a) the entire process of the transfer of power in India, (b) the lapse of the Paramountcy the British exercised over the States and (c) the consequent

process of accession of the States to either of the two Dominions, by virtue of the Instruments of Accession, the Princes signed.

Sheikh Mohammad Abdullah dewelt upon the advantages and disadvantages of three options open for the Assembly to adopt. "As a realist", he said, "I am conscious that nothing is all back or all white, and there are many facets to each of the propositions before us." Evidently Abdullah felt less convinced of the sincerity of purpose with which India had, inspite of the partition, forced on it by Muslim separatism, adopted secular integration of its people, on the basis of the right to equality, as the fundamental principle of its political organisation. He made no reference to the death and destruction, the partition had brought about and the devastation which the invasion had wrought in the State. Not the principles, but political expediency he pointed out, should be the guiding factor, to determine the merits of the accession of the State to India, and called upon the Assembly to go the way, the balance tilted. He told the members of the Assembly that the Indian Constitution embodied "secular democracy based upon justice, freedom and equality which provided the Muslims of the State the guarantee of their security in future." He pointed out that the Interim Government had undertaken reforms, which would not have been possible in "landlord-ridden Pakistan." He accepted that the economic prospects of the State were closely bound with India. "Potentially" he told the Assembly, "we are rich in minerals and the raw materials of industry; we need help to develop our resources. India being more highly industrialised than Pakistan, can give us equipment, technical services and materials. She can help us too in marketing. Many goods also which it would not be practical for us to produce here—for instance sugar, cotton, cloth and other essential commodities from India".

For Sheikh Mohammad Abdullah, the whole struggle of the States People's Conference, of which, the movement of freedom in the State, was an inseparable part, was of no consequence to the accession of the State. Nor were the Hindus

and the minorities, who had played the most factoral role in the struggle against the British colonial empire and resistance against the invasion in 1947, of any consequence to the accession of the State. The Conference leaders ignored the bloody battles the State troops and the Indian army had fought to save the State from the avalanche which had descended upon it during the dark hours of the night of 21 October 1947, and which rolled over almost half of the State. Jammu and Kashmir was not rich in minerals; mountaineous and rugged, it was a deficit State, which had lived in the poverty of its resources. For the traditional shawl and silk industries, it had always depended on the import of shawl wool from Western Tibet. For whatever it produced, its exports of handicrafts and fruits depended upon the trade in the Punjab.

Sheikh Mohammad Abdullah proceeded further to apprise the members of the Constituent Assembly of the merits and demerits of the accession of the State to Pakistan. Intriguingly he stated that Jammu and Kashmir was geographically contiguous to Pakistan and more dependable roads and waterways of the State led into Pakistan and not India, which would hamper trade and commerce of the State. Sheikh Mohammad Abdullah made ravageous remarks against India, when he said that communalism posed a threat to the Muslims in India and if India turned into a religious state in future, the interests of the Muslims would be jeopardised. "Certain tendencies have been asserting themselves in India, which may in future convert it into a religious State wherein the interests of the Muslims will be jeopardised. This would happen if a communal organisation had a dominant hand in the Government, and Congress ideals of the equality of all communities were made to give way to religious intolerance".[14]

With unabashed self-conceit, Sheikh Mohammad Abdullah said that Pakistan was a Muslim State and a large majority of the people of Jammu and Kashmir were Muslims who had a sentimental feeling for a Muslim commonwealth.

Enumerating the demerits of the accession of the State to Pakistan, Sheikh Mohammad Abdullah pointed out that Pakistan was a feudal State, economically backward and politically retrograde and oppressive. Besides,the accession of the State to Pakistan would affect the future of the one million non-Muslims of the State as there was no place for them in Pakistan. "Any solution" Sheikh Mohammad Abdullah said," which will result in the displacement or the total subjugation of such a large number of people will not be just or fair, and it is the responsibility of this House to ensure that the decision that it takes on accession does not militate against the interests of any religious group".[15]

Examining the alternative of independence of the State, Sheikh Mohammad Abdullah made certain interesting observations which had a sinister import. The third course open to use has still to be discussed. We have to consider the alternative of making outselves an Eastern Switzerland".[16] The inaugural address delivered by Sheikh Mohammad Abdullah was motivated by considerations other than those, the National Conference leaders professed, and literally embodied an assurance to the Muslims in Jammu and Kashmir as well as in Pakistan that the National Conference would opt for a choice, which was not necessarily be based upon the accession of the State to India. The inauguration of the Constituent Assembly marked the beginning of a new Muslim movement in Kashmir, for the creation of a Muslim State, inside or outside Pakistan. In the secular political organisation of the Hindu dominated India, a Muslim State could not survive.

The claim, made by Sheikh Mohammad Abdullah, that the Cabinet Mission plan envisaged the accession of the States to either of the two Dominions or opt for independence was contentious and a distortion of history. The Conference leaders read the events which had led to the partition of India, in their own way. The Cabinet Mission did not propose the division

of India and the creation of Pakistan. Nor did it visualise any alternatives to the accession of the States to recognise their independence. The Cabinet Mission Plan envisaged a united India of which the Indian States, would constitute an integral part. The accession of the States to the proposed federation of India, was inevitable with the transfer of power in India to a federal government, mainly because the British left no one in doubt, at least, not the Princes, that the Paramountcy would end and with it would come to a close, the relations subsisting between the States and the British India and as a necessary sequal the Princes would have to negotiate agreements with the Indian Union in respect of defence, communications, supplies, airways, currencies and imports and exports of goods and commodities and finances. For the States, the accession, whatever its terms, was inescapable.[17]

The Partition Plan envisaged by the 3 June Declaration of 1947, too, did not envisage independence of the Indian States. The Partition Plan, later embodied in the Indian Independence Act of 1947, provided for the lapse of the British Paramountcy. The dissolution of the Paramountcy liberated the States from the protection of the British empire, but they were vested with no more powers than they exercised under the Paramountcy. No State assumed independence after the Paramountcy was withdrawn and the British Government categorically declared that the States would neither be recognied as Dominions of the British empire nor as independent States.[18]

The future of the Indian States, after the partition was accepted,was not confined only to the rights and obligations of the Paramountcy, which were extinguished with the dissolution of the British empire in India. Nor was it confined only to the alternatives, the British sought to secure the Princes. The States were crucial to the unity of India, after the Muslim majority regions and provinces of Pakistan, were separated from it. The partition did not envisage the division of the States between India and Pakistan, nor did it visualise the separation of the States from India.

The Muslim League insisted upon the reversion of the Paramountcy to the Princes and their right to opt for choice in respect of accession or the independence of the States. However, the British government accepted that the Princes were free to accede, or enter into such agreements among themselves as they chose, but the British categorically refused to recognise the States as British Dominions or countenance their independence. Mountbatten gave a rebuff to the League, when he addressed to the Princes on 25 July 1947, and told them plainly that they could not escape integration with the rest of India and the British government would neither be prepared to offer aid nor accept the independence of any State. "My scheme leaves you with all practical independence you can possibly use and make you free of all those subjects which you cannot possibly manage on your own. You cannot run away from the Dominion government which is your neighbour any more than you can run away from subjects for which welfare you are responsible".[19] The borders of Jammu and Kashmir were contigous to India and the State could not escape the consequences which naturally eminated from the lapse of the Paramountcy. A larger frontier of the State was contiguous to Pakistan, which had destablised the adjascent Muslim majority districts of Poonch and Mirpur in the Jammu province and Muzaffarabad in the Kashmir province, to cause considerable concern to the State authorities. The borders of the State run along the Wakhan Valley of Afghanistan till almost its confluence with the west of Sinkiang. In the east the State was rimmed by Tibet. The British empire in India had forged the northern frontier of the State from the Dardic dependencies of Jammu and Kashmir, Chitral, Yasin, Darel, Ishkoman, Tangir, Hunza, Nager and Punial, spread around the Gilgit Agency in the west to the Salt Lakes of Aksai-Chin in the east, with assiduous commitment to the defence of their empire in India. For India the disintegration of the northern frontier of the State, would be the greatest disastour.

India was an important factor to determine the future of

the States. The rulers of the States could not visualise their future in isolation from India. The Indian States were not subject to partition; neither the Muslim rulers nor the Muslim subjects of Indian States were enjoined to opt for Pakistan by the Partition Plan or the India Independence Act.

The Conference leaders added a fresh dimension to the accession of the States, by claiming independence for the State or its right to accede to Pakistan, after it had acceded to India. The fact that the Muslims constituted a majority of the population of Jammu and Kashmir, did not create any special conditions for which they could claim the right under the Partition Plan or the procedure laid down by the Indian Independence Act, to accede to Pakistan or assume independence.

Maharaja Hari Singh exhausted the alternative available to him under the Indian Independence Act of India, when he acceded to India. The Indian commitments to the Security Council were not pronounced on behalf of Jammu and Kashmir State, but on behalf of the Government of India. The Government of India offered to hold a referendum in the State to ascertain the wishes of the people of the State in regard to accession, but it consistently refused to accept any instrumentalities for such a referendum which repudiated the accession of the State to India. The investiture of authority in the Constituent Assembly of the State, which was independent of the Constitution of India, virtually, repudiated the accession of the State to India and prejudiced the position India had taken in the Security Council.

A more involved aspect of the address Sheikh Mohammad Abdullah delivered to the Assembly, was his assertion that the Constituent Assembly of the State would exercise power:

(i) to revoke the accession of the State to India;
(ii) to accomplish the accession of the State to Pakistan;
(iii) to secure the State independence.

The leaders of the National Conference sought with calculated purpose to neutralise the fact that the Constituent Assembly had been instituted by an instrument created by the Constitution of India. The process, which had commenced with the accession of the State, and extended upto the convocation of the Constituent Assembly of the State, eminated from the Instrument of Accession, which by virtue of its provisions, integrated the sovereignty and the authority of the State with the sovereignty and the authority of the State of India. The stipulation of the Instrument of Accession, that Hari Singh did not bind himself to any future Constitution of India, except by agreement with the Indian Dominion, retained to him the powers to convene a constitution-making body to frame a constitution for the State, which his Regent Yuvraj Karan Singh did, when he ordered the convocation of the Assembly. But the Instrument of Accession did not vest in Hari Singh, any authority to empower the Constituent Assembly to undo any terms of the Instrument of Accession, rescind the act of accession, or perform a fresh act of accession to the Dominion of Pakistan.

The Instrument of Accession created the powers, by virtue of its terms, which vested authority in the ruler, not to accept any future Constitution of India, except by subsequent agreements with the Indian Government. The Proclamation of the Yuvraj assumed meaning and legal validity only within the ambit of the Instrument of Accession.

If the State had not acceded to India, the Proclamation of the Yuvraj would not have the meaning and the legal sanction, which formed its basis. The terms of the Instrument of Accession were incorporated in the Constitution of India, by virtue of:

(i) the Instrument of Accession;
(ii) Article I of the Constitution of India;
(iii) Article 370 of the Constitution of India;
(iv) the Proclamation of the Regent of the State issued on 25 November, 1949.

The Proclamation of the Regent envisaged the acceptance by the ruler of the State of the Constitution of India, according to which the relations between the State and the Indian Union would henceforth be governed. The Constitution of India envisaged the extension of its provisions to the Jammu and Kashmir State within its provisions embodied in Article I and Article 370. The Proclamation superseded and abrogated all constitutional provisions in force with State, inconsistent with the Constitution of India.

The claims of the Conference leaders that the Constituent Assembly of the State had plenary powers, drawn from the State, who were not a part of India, even after the State had acceded to the Indian Dominion, tantamount to a virtual declaration of the independence of the State, which Sheikh Mohammad Abdullah, contended, was reflected in the authority of the Constituent Assembly. The Conference claim to a separate and independent charge for the Constituent Assembly, was the first act of the Interim Government, to formalise the independence and sovereign authority of the State of Jammu and Kashmir which the Muslim majority of its population held in independence possession.

The doctrine of Double Charge, the Conference leaders, evolved, had several implications:

(i) it repudiated the Instrument of Accession signed by the ruler of the State;
(ii) it envisaged powers for the Constituent Assembly, which were not derived from the Constitution of India or the Instrument of Accession, but were vested in it by the people of the State, who formed an independent identity separate from the people of India;
(iii) it underlined an independent State of Jammu and Kashmir of which the constitutional instrument: the Constituent Assembly, would exercise power to accede to Pakistan or assume independence;

(iv) the Union of India was left with no remedy in case the Constituent Assembly of the State violated the Constitution of India.

On 7 November 1951, the Constituent Assembly constituted several committees to examine various aspects of the constitution of the State and submit their reports to the Assembly for its consideration. Among the Committees constituted were the Basic Principles Committee, the Advisory Committee on Citizenship and Fundamental Rights and the Drafting Committee. Mirza Afzal Beg who moved the resolution for the appointment of the Advisory Committee on Citizenship and Fundamental Rights, told the Assembly that the Committee would report on citizenship of the State and the fundamental rights which would be incorporated in the Constitution of the State and the rights, the people of the State would be secured would be designed in accordance with the rights which were incorporated in the constitutions of other democratic countries. He made no reference to the fundamental rights enshrined in the Constitution of India.[20]

The Constitution of India embodied the right to equality and the right to protection against discrimination on the basis of religion, caste, place of birth, sex and colour, the right to freedom of faith and the right to property. The Constitution of India underlined the secular character of the State and its government in India and right to constitutional remedies for all people against the State, in case of discrimination on the basis of religion. The Conference leaders did not support the secular equality of the people of the State as the basis of its government nor did they favour the incorporation of the right to freedom of faith and right to protection against discrimination on the basis of religion in the constitution of the State. The Conference leaders were committed to the Muslimisation of the State, and the establishment of the precedence of the Muslim majority in its government, society and economic organisation. They visualised secularism in terms of the

religious injunctions of Islam which they claimed, guaranteed protection for the minorities.

## REFERENCES


1. Resolution of the General Council of All Jammu and Kashmir National Conference Srinagar.
2. M.K. Teng, *Article 370*, p. 81.
3. Proclamations of Yuvraj Karan Singh, 30 April, 1951.
4. Praja Parishad Records, Jammu.
5. *Ibid.*
6. *Ibid.*
7. Interview with Maulana Mohammad Sayed Masoodi.
8. Constituent Assembly of Jammu and Kashmir, Debates Vol. 1, No. 1.
9. *Ibid.*
10. *Ibid.*
11. *Ibid.*
12. *Ibid.*
13. *Ibid.*
14. *Ibid.*
15. *Ibid.*
16. *Ibid.*
17. Papers relating to Cabinet Mission to India.
18. V.P. Menon: *The Story of the Integration of the States*; p. 84.
19. Urmilla Phadnis; *Towards the Integration of Indian States*; p. 184.
20. Constituent Assembly of Jammu and Kashmir, Debates, Vol. 1, No. 1.

# CHAPTER - 4

## *The Minorities*

The Hindus, the Sikhs and the Buddhists, constituting the non-Muslim minority in the State, including the Hindu Sikhs who had taken refuge in Jammu and Srinagar in 1947, constituted about 39 per cent of the population of the State. The National Conference, after it was saddled in power, lost no time to virtually exclude the Hindus and the other minorities from the government of the State, its economic organisation and its social ethos. Right from the time, the Emergency Administration was constituted, the Conference leaders and cadres, unleashed a virulent campaign of persecution against the Hindus, who were accused of having exploited the Muslim masses during the Dogra rule and having opposed the Muslim struggle against the Dogras to protect their vested interests.

After the Interim Government was instituted, and the Conference leaders secured undisputed mastry over the government of the State, they initiated several measures, which has a devastating effect on the Hindus and the other minorities.

(i) A widespread land-grab was put into operation by the Conference cadres, under the cover of land-reforms, to dispossess the Hindus of their land.

(ii) All interests in property, industry, trade and commerce, transport, etc., were extinguished in the name of nationalisation of property, ostensibly to establish a class-less society, but in reality to exclude the Hindus and the other minorities from industry, trade, transport and commerce and forge

a new, politically motivated Muslim middle class.

(iii) An undeclared moratorium was placed on the entry of the Hindus and the other minorities into the employment of the State, ostensibly to rectify the communal imbalances alleged to have been fostered by the Dogra regime to promote the interests of the Hindus.

(iv) The moratorium was extended to the admission of the Hindus and the other minorities to educational institutions, grant of scholarships and nominations to institutions of higher and technical education outside the State.

(v) Hindus and other non-Muslims were removed from any responsible positions, which they held, to exclude them from all decision-making units of the State Government.

(vi) Islam was virtually recognised as the official religion of the State and all rational commitment to secularism was interpreted in terms of the principles of religious tolerance Islam enshrined.

In less than a decade, over which the Interim Government ruled, the Hindus and the other minorities were reduced to the position of a subject population. The Interim Government, exercised absolute authority in the absence of any constitutional guarantees, the people of the State were secured against arbitrary exercise of state power, discrimination on the basis of religion, ideologically motivated cultural aggrandisement and social persecution. The National Conference visualised secularism in terms of the religious injunctions of Islam, which embodied protection for the non-Muslims in a Muslim state. The Interim Government legitimised the enforcement of the precedence of Muslims in the government and society of the State as an essential aspect of the liberation of the Muslims from the Dogra rule. The National Conference claimed that reorganisation of the government and society in the State, could not be visualised except in terms of the Muslimisation

of the State, which they claimed, would ensure the secularisation of the State and provide a guarantee secularism in India, where the Hindus formed a dominant majority of the Indian population.

The Cabinet Mission plan had offered to the Muslim League, the organisation of a Muslim State in India, which would be independent from the rest of the country, except in respect of defence, foreign affairs and communication, almost similar to the Muslims State, the National Conference leaders, carved out in Jammu and Kashmir by virtue of Article 370. The Muslim in India, used the Cabinet Mission plan to consolidate the movement for Pakistan in the Muslim majority provinces, as well as the Hindu majority province of Assam, which the Muslim League claimed for Pakistan on the basis of its geographical contiguity to the Muslim majority province of Bengal.

The Hindus in Kashmir, where the rigour of Muslimisation was more pronounced, protested against the disasterous effects, the enforcement of the precedence of the Muslim majority in the government and society of the State, had on their community. The Hindus, conveyed to the Congress leaders, among them, Nehru as well, that the Muslimisation of the State had generated a rapid growth of Muslim separatism in the State. The Hindus conveyed to the Government of India that the Muslimisation of the State would eventually lead to the destablisation of the minorities not only in Kashmir, but all over the State. The Congress leaders ignored the protest.

In the Jammu Province and Ladakh, the protest of the Hindus and the Buddhists assumed a more organised and forceful expression. In Jammu, the Praja Parishad organised public opinion against the policies of the Interim Government and demanded the integration of the State in the constitutional organisation of India. The Praja Parishad claimed that the exclusion of the State from the constitutional organisation of India on the basis of its Muslim majority identity had led to

the consolidation of communal and separatist forces in the State. The Parishad blamed the National Conference of seeking to forge a separate political identity of the State which did not form a part of the Indian political culture, with its basis in the Indian renaissance and national unity. The Parishad leaders, demanded the application of the entire Constitution of India to the State which alone, the Parishad leaders stressed, would promote the growth of democratic institutions in the State and check the separatist and isolationist trends, which the policies followed by the Interim Government had generated.

The pronouncement of the National Conference leaders in the Constituent Assembly and outside it, estranged the Hindus and the other minorities further. In the Kashmir Province, the Hindus, already facing destablisation, received a fresh jolt, when the Conference leaders sought a fresh vote for the Constituent Assembly on the accession of the State. They were unrepresented in the Constituent Assembly and the few of the Hindus, who were returned to the Constituent Assembly unopposed, acted as the stooges of the Conference. Kashyap Bandhu, who had played a memorable role during the war years, in forging a secular movement for reform in the State and who was one of the signatories to the National Demand, was dumped by Abdullah in the Department of Rural Uplift, where he actually faded away into oblivion. Jia Lal Kilam was appointed a Judge of the High Court of the State and silenced. Budh Singh, the veteran Sikh leader, Sham Lal Saraf and Durga Prasad Dhar, ministers in the Interim Government, meekly followed the policies of the Conference, which were mainly devised by Sheikh Mohammad Abdullah, Afzal Beg and Maulana Masoodi, with the help of several Muslim bureaucrats in the State Government, most of whom were renegades, who had opposed the Conference in its struggle against the Dogras as well as its decision to support accession to India.

Gradually the support-base of the National Conference among the Hindus and the other minorities narrowed,

eventually leading the Conference leaders to depend upon the Kashmiri-speaking Muslims in the Valley and the contiguous districts of the Jammu Province. The Praja Parishad gathered wide-spread support among the Hindus and the other minorities in Jammu, and in due course of time assumed the leadership of the Hindu protest against the policies of the Interim Government.

In January 1952, the students of the local Government College in Jammu staged a demonstration protesting against the hoisting of the flag of the National Conference on the building of the College. The students complained that the National Conference flag was a party flag and therefore, it could not take the place of the national flag or the flag of the State. The students' protest infuriated the Conference, leaders who had the intelligence that the demonstrations organised by the students, was inspired by the deep resentment among the Hindus of Jammu against the Interim Government. The National Conference had, in order to promote its ideological commitment to the separate political identity of the State, demanded people's allegiance to "one leader, one party and one programme, almost on the pattern of the party dictatorship which characterised State controlled regimes. With the loyalty of the Muslims ensured on the basis of the promise to create a Muslim State of Jammu and Kashmir, which did not form a part of the Muslim commonwealth of Pakistan and which was placed outside the Hindu dominated secular State of India, the Conference leaders, could not garner the support of the Hindus and the other minorities, except by neo-fascist means to uphold the supremacy of Sheikh Mohammad Abdullah, the National Conference and the programme of 'Naya Kashmir.'[1]

The Hindu opposition to the National Conference, the students protest in Jammu symbolised, marked the beginning of protest against the policies of the Interim Government. The State administration came down upon the students agitation with a heavy hand. "The students retaliated by proceeding on

hunger strike. The situation worsened and the protest demonstrations organised against the action of the government turned violent. At a number of places, the police resorted to firing. The situation deteriorated further and the army was called out to quell the disturbances. A seventy-two hour curfew was clamped on the Jammu city. "The Interim Government blamed the Praja Parishad of having instigated the agitation. The Parishad denied having any hand in the demonstrations and demanded the institution of an independent enquiry into the causes of the disturbances. Several leaders of the Parishad, including the President of the Parishad, Pandit Prem Nath Dogra, were arrested."

The Conference leaders claimed with impunity, that Jammu and Kashmir was a Muslim majority State and the Muslims had extended their support to Join India on the terms they determined and in case the Hindus did not support them, the Muslims would have no alternative but to part from India. The National Conference commitment to the Muslim nation of Kashmir, had ultimately come to its inevitable end: conflict with the Hindu commitment to national integration of the Jammu and Kashmir State with India.

The Hindu reaction and the agitation in Jammu was received by the Conference leaders as an affront. They accused the Hindus and the other communities of seeking to re-establish their dominance over the State with the Hindu communal forces in India, to destroy its secular character which they claimed was partly based on the recognition of the Muslim minority character of the Jammu and Kashmir, and its separate political identity. Using the Parishad agitation as a level, the Conference leaders went as far as to declare that the demand for the integration of the State into the Indian constitutional organisation, would not be acceptable to the Muslims, who had acceded to India to protect their freedom, when Pakistan sought to snatch it and who would not hesitate to reconsider their decision to support India, if the Indian people sought to snatch their freedom.

The pro-Pakistan elements, the words of intelligence agents of Pakistan operating in the State and a large section of Conference leaders and cadres, who had opposed the accession of the State to India, joined by the Muslim bureaucracy in the State government, launched a calculated campaign to illustrate the irreconcilability of the separate Muslim identity of Jammu and Kashmir with the Hindu dominated India, amply proved by the Hindu agitation in Jammu. The appeal went home, for the separate Muslim state of Jammu and Kashmir could neither be reconcilled with the secular political organisation of India, nor be acceptable to the Hindus of India.

The communal polarisation which the Interim Government fostered in the State, caused considerable anxiety to the Congress leaders, who realised the danger in the alienation of the major communities in the State and the advantage Pakistan and the pro-Pakistan Muslim elements in the State could take of any Muslim distrust which grew in consequence. Their efforts to assuage the deep distrust among the Hindus and the other minorities was feeble.

In fact, the Indian leaders denounced the Jammu agitation and accused the Praja Parishad of playing in the hands of the enemies of the State. They did not muster courage to tell the Conference leader that they could not carry the Hindus and the other minorities with them in their endeavour to reorganise Jammu and Kashmir into a Muslim State. Obviously, the Hindus and the other minorities were not prepared to accept a separate political identity of the State which was placed outside the constitutional organisation of India and which was based upon the communal precedence of the Muslim. The Hindus, the Sikhs and the Buddhists had fought for the freedom of India, shoulder to shoulder with their fellow countrymen, opposed the partition and paid for their patriotism, more heavily than their Muslim campatriots, in the war of resistance against Pakistan in 1947.

They were unable to gauge the implications of the shift in

the outlook of the National Conference leadership, which had now become far too pronounced to be ignored. They were still guided by the conviction that the National Conference commitment to support the accession of the State to India, would lead them to victory against Pakistan. Perhaps, they were unaware of the political developments, which had followed the United Nations intervention and its impact on the Conference leaders. They were also unaware of the confabulations between the senior leaders of the Conference and the United Nations delegates sent to Kashmir on different conciliatory missions, including the members of the United Nations Commission for India and Pakistan. Durga Prashad Dhar, the Deputy Home Minister in the Interim Government, a left intellectual, shared his confidence with the Czech representative, Joseph Korbel nominated by India on the United Nations Commission to India and Pakistan. Neither he nor the Government of India knew of Korbel's connections till he defected to the west. And for whatever information the Indian Government had about the events in the State, they failed in their courage to confront the Conference leaders with any firm disapproval.

The shift in the policies of the Conference leaders which was formalised with their pronouncements in the Constituent Assembly, percolated down to the rank and file of the Conference and its impact spread out to the Kashmiri-speaking Muslims, almost all over the State. The message of the Conference leaders was clear and simple. The Muslim majority State of Jammu and Kashmir could not be integrated into the Hindu dominated India, and therefore, the Muslims of Jammu and Kashmir had chosen to opt for a separate political identity of the State, which was placed outside the constitutional organisation of India, and which was ensured guarantees by third states, including the United States, Britain and Pakistan, besides Russia. The implications of the demand for the separate Muslim identity of the State were wider; the proposition that the Muslim majority character of the State required to be

protected from the Hindu majority of India, was identical to the Muslim League demand for a separate state for Muslims in India to protect them from Hindu dominance. The National Conference sought to create a second Muslim State to save the Muslim nation of Kashmir from the dominance of the Hindu majority in India.

**Basic Principles Committee**

The Basic Principles Committee of the Constituent Assembly presented its report on 24 March, 1952. Afzal Beg, the Chairman of the Committee, unfolded the scheme of autonomy, the National Conference visualised for the State. The report envisaged that:

(i) Jammu and Kashmir would not form a part of the Indian constitutional organisation and no provisions of the Constitution of India except those corresponding to the terms of the Instrument of Accession, would be applied to the State;

(ii) the State would be constituted into an "autonomous republic within the Indian Union, with a separate President, National Assembly, Judiciary, regional autonomy and separate citizenship;"

(iii) the State would have its own Bill of Rights, which would be included in the Constitution of the State and which would be based upon the special features of Jammu and Kashmir and its special needs.

The proposals of the Basic Principles Committee deepened the distruct of the Hindus and the other minorities in the State. Reconstitution of the State into an autonomous republic with its separate President, a separate National Assembly and a separate citizenship, evoked severely adverse reaction from them in the Jammu Province. The Hindus in Kashmir, alarmed by the proposals of the Basic Principles Committee, beseeched the Congress leaders to put a check on the separatist outlook of the National Conference, which was using its

demand for autonomy, as a cover to prepare the ground for a final break off with India. They accused the Conference leaders, of encouraging Muslim separatism, which they alleged, would in the long run lead to a national calamity. They apprised the Congress leaders of the wide-spread communal persecution, the Interim Government perpeterated upon the Hindus and the other minorities and demanded the application of the Constitution of India to the State, in order that they were secured protection against further discrimination.

The agitation, in Jammu, which intensified as the days went bye, and the increasing distrust among the Hindus, worried the Indian leaders. The Interim Government carried on a relentless campaign of villification against the Hindus, charging them of seeking to destablise the Interim Government to re-establish Hindu dominance over the State with the help of the Hindu communal forces in India. They alleged that the Hindu agitation was aimed to undermine the autonomous political organisation of the State to destroy its Muslim majority character.

In April 1952, the Indian Prime Minister sent Gopalswami Ayangar to Jammu to make an on the spot assessment of the situation and help in restoration of normalcy in the Province. A number of delegations from both the Provicinces met Gopalswami Ayangar. A delegation of the Buddhists of Ladakh also met him. The delegations representing the Hindus and the Sikhs, informed Ayangar that the efforts of the Conference leaders to reconstitute the State into an autonomous republic, symbolised Muslim separatism, which would eventually lead to the secession of the State from India. They apprised Aryangar of the separatist trends which grew fast in the State in the name of its Muslim identity. They told him that the Hindus and the Sikhs opposed the separate political organisation of the State, which they alleged was used by the Interim Government to Muslimise the State and eliminate the minorities.

Ayangar mission disparaged the Conference leaders who had received unstinted support of the Congress leaders in whatever way they had governed the State. Many Muslim leaders of the Conference expressed strong resentment against Ayangar's visit and accused the Government of India of uncalled for interference in the internal affairs of the State. They claimed that the Muslims would not accept the secular integration of the State into the constitutional organisation of India which was bound to affect the Muslim majority character of the State. "They claimed that the Constituent Assembly of the State was not subject to any operatives which were not devised by the Interim Government and therefore, the Assembly was free to determine the institutional basis of the future constitution of the State. Some of the Conference leaders claimed that the Muslims in the State had supported the accession of the State to India on the condition that Jammu and Kashmir would be preserved its separate political identity and the Muslim majority character of its population."[2]

Not long after Ayanger returned to Delhi, the Conference leaders mounted a scathing attack on the people who demanded the integration of the State into the Constitutional organisation of India. On 10th April, 1952, Sheikh Mohammad Abdullah, in a public speech delivered at Ranbir Singh Pora, a small township in the Jammu Province, situated close to the borders of Pakistan, severely criticised the demand for the integration of the State with India. Abdullah characterised the demand for the integration of the State into the constitutional organisation of India as "unrealistic, juvenile and insane." He said that the people who sought the integration of the State with India and the termination of its separate political identity "did not appreciate the realities of the situation which faced them in the State." Sheikh Mohammad Abdullah, claimed that the Muslims in the State were apprehensive of widespread communalism in India and they would not submit to the domination of the majority community in India. He observed: "No one can deny that communal feeling still persist in India.

Many Kashmiris are apprehensive about what will happen to them and their position, if for instance, something happens to`Pandit Nehru." Sheikh Mohammad Abdullah said that the Muslims of Kashmir needed an assurance that India would not interfere in their internal affairs, and limit their freedom. If a special position was not secured for Kashmir in the Indian Constitution, how can we convince the Muslims in Kashmir that India does not interfere in the internal affairs of Kashmir." He made a wild assertion and said that, the Muslims had acceded to India in regard to defence, foreign affairs and communications. "We have acceded to India," he said, "in regard to defence, foreign affairs, and communications in order to have some sort of internal autonomy."

Sheikh's address stunned the Congress leaders in Delhi for whom the statement was a warning of the dangers ahead. Evidently, the assertion that the Muslims in Jammu and Kashmir were apprehensive of the recrudescence of communalism in India was unfounded. India had, of its free will opted for a secular political organisation, based upon the right to equality and protection against discrimination on the basis of religion, inspite of the division, the Muslims had forced on the Indian people and the internecine strife which had followed it. The Indian State had neither opted for communalisation of its government, nor sought the enforcement of the precedence of the Hindu majority in India. Contrary to the Indian commitment to the right to equality and protection against discrimination on the basis of religion, the National Conference Government headed by Sheikh Mohammad Abdullah, had upheld the Muslimisation of the State. Nowhere in India, except in Jammu and Kashmir, were communal quotas, fixed for employment, economic advantage and education on the basis of population proportions, a scourage, which ravaged the Hindus and the other minorities for decades after the Interim Government ended.

While Sheikh's words rattled round in Jammu, he delivered another speech in Srinagar, in which he alleged that

communalism was rife in India and the people of Jammu and Kashmir would not brook any interference with their freedom, which they had achieved after great sacrifices. Speaking to a huge Muslim congregation, at the Hazaratbal shrine, situated in Srinagar, the central place used by the Conference leadership as a major base of communication with the Muslims in Kashmir, who thronged the shrine in thousands. In his address, Sheikh Mohammad Abdullah said that "the people of Kashmir were not prepared to renounce their cherished goal of freedom and the ideology of the National Conference, the furtherance of which they had offered their blood and sweat during the last two decades. He told the congregation that Kashmir had acceded to India in respect of only defence, foreign affairs and communications and the people of the State possessed complete freedom to shape their own destiny in accordance with their will. "The people in Kashmir, possess the unassailable right to shape their destiny and they cannot be shaped by anybody except themselves." Sheikh Mohammad Abdullah said that any attempts to snatch the freedom of Kashmir would have dangerous consequences. Sheikh Mohammad Abdullah said: "Those people who are raising the slogan of full application of Indian Constitution to Kashmir are weakening the accession of the State. They are the same people who massacred Muslims in Jammu. These slogans naturally cause suspicion in the minds of the Muslims of the State."

In the Constituent Assembly, Sheikh Mohammad Abdullah gave a more clear exposition of his outlook. He told the Assembly in an address, which he delivered on 25 April 1952, that the Constituent Assembly of the State possessed unfettered powers to determine the affiliations of the State. The powers of the Assembly, he claimed were derived from the people and therefore, its powers were not subject to any limitations arising out of the accession of the State to India. Sheikh Mohammad Abdullah claimed further that the Assembly possessed unqualified powers to determine the future of the

ruling family, frame the constitutional relations between the State and the Union of India.

The pronouncements of the Conference leaders, inside the Assembly, deepened the crisis in the State. The Conference cadres, evidently, under the instructions of their leaders, launched a campaign among the Muslims, apprising them of their refusal to accept the finality of the accession of the State to India. The whole campaign centered round several fundamental issues, which were basic to the policy of the National Conference in regard to the accession of the State and its future constitutional organisation. In substance, the Conference cadres claimed:

(i) the finality of the accession of the State was subject to the approval of the Muslim majority of the people of the State;

(ii) the Constituent Assembly of the State derived its powers from the people and neither the Instrument of Accession nor the Constitution of India fettered its powers;

(iii) the Constituent Assembly was vested with the powers to:
   (a) ratify the accession of the State to India;
   (b) opt for accession of the State to Pakistan; or
   (c) vote for the independence of the State.

(iv) the Constitutional relations between the State and the Union of India were also subject to the authority of the Constituent Assembly;

(v) the Jammu and Kashmir belonged to the Muslims and they alone would determine its future affiliation as well as its constitutional organisation and the demand made by the Hindus, Sikhs and other minorities in the State for the final integration of the State with India, militated against the aspirations of the Muslims for self-determination;

(vi) the Hindu agitation in Jammu was aimed to scuttle the freedom of the Muslims to opt for independence, or join the Muslim nation of Pakistan;

(vii) the Dogra rule symbolised the slavery of the Muslims and therefore, the Muslims would no longer accept its continuation and the Constituent Assembly would provide a mandate for the replacement of the ruler by a President of the State, who was elected from among the common people of the State and who would give expression to the aspirations of the majority of the people in the State.

The Basic Principles Committee submitted an Interim Report to the Constituent Assembly on 10 June, 1952. The report stipulated:

> "It is the considered view of the Committee that sovereignty does and must reside in the people and that all Power and authority must flow from the expression of their free will. The State and its head, respectively symbolise this sovereignty and its centre of gravity. The Head of the State represents the authority vested in him by the people for the maintenance of their rights. The promotion of this vital principle of constitutional progress makes it imperative that this symbol of State power should be subject to the vote of the people. The Committee, therefore, strongly feels that consistent with the democratic aspirations of the people of the State, the office of the Head of the State should be based upon the elective principle and not upon the principles of hereditary."

Sheikh Mohammad Abdullah sated in the Assembly that the Interim Report of the Basic Principles Committee reflected the will of the people. He said that the National Conference had decided to replace the ruler by a Chief Executive, who was elected by the people and who represented them. He

made certain interesting observations in the Constituent Assembly in regard to the proposals to end the Dogra rule. He said:[4]

> However, the Committee has made the recommendations for the termination of this hereditary rule in the light of the desires of the people, who under the guidance of National Conference, have sacrificed their lives, have gone to jails and put up in narrow cells inhabited by serpents and scorpions. Hundreds of women folk have been dishonoured, hundreds made to crawl on their bellies and thousands martyred by shedding their blood. It is the saying of the leaders that freedom cannot be achieved by requesting but by struggle. Only that nation attains freedom which sheds its blood for this cause. This again cannot be achieved by begging. Freedom can be obtained only when the people of Jammu, Kashmir and Ladakh, nay, of the whole State, make sacrifices in the manner in which lakhs of people like Lutther have struggled for their liberation.

The message was indeed clear. In unambigious terms Sheikh Mohammad Abdullah, sought to convey to the Muslims in the State, that the National Conference led the movement for their liberation and only after sacrifices were made, they could achieve freedom. Sheikh Mohammad Abdullah knew that the Hindus and the Sikhs were severely opposed to the separation to the State from India and did not approve any constitutional change in the absence of safeguards for the protection of their basic rights.

The Report of the Basic Principles Committee was unanimously adopted by the Constituent Assembly on 12 June 1952. The resolution of the Assembly stipulated:

(i) the hereditary rule of the Dogras would be abolished;

(ii) the head of the State would be elected by the Legislative Assembly of the State and after having been elected would be recognised by the President of India;

(iii) he would be designated the Sadar-i-Riyasat;

(iv) he would hold office for a period of five years;

(v) the method of election, and other qualifications would be prescribed in the State Constitution;

(vi) the Sadar-i-Riyasat would exercise such powers, as would be vested in him by the Constitution of the State;

(vii) the Constituent Assembly would prescribe suitable procedure for the removal of the Sadar-i-Riyasat, in case of gross misconduct.

After the Interim Report of the Basic Principles Committee was adopted by the Constituent Assembly, Durga Prasad Dhar, moved another resolution in the Constituent Assembly, proposing that instructions be issued to the Drafting Committee of the Constituent Assembly to frame such provisions as would be deemed necessary for the implementation of the recommendations of the Basic Principles Committee. "The Assembly resolves," the resolution stipulated, "that the recommendations contained in the Interim Report of the Basic Principles Committee, as adopted by the Assembly be implemented and for this purpose the Drafting Committee be directed to place before the Assembly, appropriate proposals in the form of a resolution, within a period of one month from the date of the passing of this resolution."[6]

The Government of India did not approve the proposals made by the Constituent Assembly of the State. Several Indian leaders strongly objected to the piecemeal constitutional amendments the Interim Government sought to bring about. Many of them disapproved of the removal of the Maharaja at a time when the Indian government was cajoled in the Security Council to accept the induction of a plebsicte administration

into the State, while negotiations for demiliterisation were still pending a final decision.

The Government of India, accordingly, informed the Conference leaders that the constitutional changes proposed by the Basic Principles Committee and approved by the Constituent Assembly of the State, would be inconsistent with the provisions of the Constitution of India. The Conference leaders were informed that any changes in the constitutional organisation of the State, which the Constituent Assembly proposed, would inevitably involved the integration of the State in the constitutional structure of India, in order that the constitutional instruments created by the Constituent Assembly did not conflict with the basic principles enshrined by the Constitution of India. In the Parliament, Nehru made a frank admission of the fact that constitutional change in Jammu and Kashmir could not be excluded from the framework of the principles, the Constitution of India envisaged and changes proposed to be undertaken in the State would have to be in consonance with the political imperatives, the Constitution of India envisaged. He said: "Now this position might well have lasted some time longer, but for the fact that the Constituent Assembly of Kashmir came into existence with our goodwill and with our consent. Now it is sitting to draw up its Constitution. When it is drawing up its Constitution, it has to be in some precise terms; it cannot be fluid. Therefore, the question arose that nothing should be done by the Constituent Assembly of Jammu and Kashmir State, which does not fit in with our Constitution, which is in a sense contrary to or conflicts with any part of it."[7]

The Conference leaders despatched a high power delegation, headed by Afzal Beg to the Indian capital to clarify their stand on the issues raised by the Government of India. Among the other members of the delegation, were included Syed Mir Qasim, the Secretary of the Basic Principles Committee and M.A. Shahmiri, the Constitutional Advisor to the Constituent Assembly. The delegation was later joined by the

other senior leaders of the National Conference, including Sheikh Mohammad Abdullah, Bakhshi Gulam Mohammad, Maulana Masoodi and Gulam Mohammad Sadiq.

By now, disillusionment about the United Nations intervention had set in the Government of India and Nehru and the other Congress leaders had almost abandoned their hope to get the invading armies of Pakistan evacuated from the occupied territories of the State. In fact, the severe whipping India had received in the Security Council, had caused considerable discomfiture to the Indian leaders and harmed the interests of the country. The British and their allies in the Security Council, including the United States of America, had gradually yielded ground to Pakistan on the main issue of the demiliterisation and the liberation of the occupied territories. At one time, the United Nations Military Advisors, almost compelled the Indian Government to accept a parity in the forces, the two countries would retain in the State, tacitly accepting Pakistan's claim to retain control over the occupied areas. The negotiations fell through, because, Pakistan resiled from its commitments.

Nehru had painfully realised that the negotiations, carried on under the auspices of the United Nations for the demilitarisation and truce, had ultimately led to the consolidation of the hold, Pakistan had assumed over the territories of the State under its occupation. "He had also realised that the delicately poised balance, which formed the basis of the Indian position in the State had been considerably eroded by the United Nations mediation, which had been deliberately protracted by Pakistan to demolish the Indian influence in the State. Nehru was also aware of the deep distrust, in the State, which the policies followed by the Conference leaders had generated and the efforts, which were made by a section of the Conference leadership to take advantage of the political instability in the State to convert it into a second Muslim republic."

**Delhi Agreement**

The high power delegation of the Conference leaders had long discussions with the Indian leaders including Nehru, over several crucial issues in regard to the constitutional relations between the Union and the State and the constitution of the State, including the abolition of the Dogra rule. The Conference leaders, appeared to insist upon changes in the constitutional organisation of the State, as a first measure to introduce reforms in the State Government, which would later be followed by changes in the constitutional relations between the State and the Union. As a matter of fact, the Conference delegation, sought the approval of the abolition of the Dogra rule and substitution of the ruler, by a chief-executive, who would be elected by the Constituent Assembly of the State and who would remain in office for a fixed tenure of five years, as proposed by the Basic Principles Committee of the Constituent Assembly.

The insistence of the Conference leaders, upon the abolition of the Dogra rule, was permeated by subtler motives. Sheikh Mohammad Abdullah and the other Conference leaders were aware of the fact that the Regent of the State, Yuvraj Karan Singh, possessed the powers and prerogatives which his father, Hari Singh was reserved by virtue of the Instrument of Accession. Hari Singh had reserved to himself authority to enter into fresh agreements with the Government of India, in respect of the constitutional relations between the State and the Union of India. The Government of India, could, in case, the necessity arose, conclude fresh agreements with the Regent in regard to the constitutional relations between the State and the Union. The abolition of the Dogra rule would dissolve the prerogatives of the ruler and permanently close the prospect of any agreement between the Government of India and the head of the State of Jammu and Kashmir without the approval of the Interim Government.

Nehru told the Conference delegation that piecemeal decisions could not be taken on isolated constitutional issues,

as they came up for consideration from time to time and it would be necessary to consider the entire constitutional organisation of the State in order that the constitutional arrangement inside the State as well as between the State and the Union of India were given some form of uniformity and finality. Nehru told the Conference delegation that:

(i) changes in the constitutional organisation of the State would necessitate the integration of the State into the constitutional organisation of India and the application of the Constitution of India to the State, except in regard to the State government;

(ii) the Constituent Assembly would frame the constitution for the government of the State;

(iii) the constitution of the State would not incorporate provisions inconsistent with the basic structure of the Constitution of India.[8]

The position adopted by the Indian leaders had substantial justification. The decision of the Constituent Assembly of the State to abolish the Dogra rule, impinged upon the provisions of Article 370. Article 370 provided that the State Government was construed to mean "the Maharaja of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office under Maharaja's proclamation dated the fifth of the day of March 1948." The Conference leaders, actually sought to change the provisions of Article 370, to secure a constitutional position for the head of the State which would change the provisions of the Constitution of India in respect of the State.

The Indian leaders agreed to accept the abolition of the Dogra rule and replacement of the ruler by a head of the State, who would be elected in such manner and for such term as the Constituent Assembly would determine. They also agreed to allow the State to have a separate national flag, and a separate constitution. However, they proposed the application of the provisions of the Constitution of India to the State, in

regard to, citizenship, fundamental rights, jurisdiction of the Supreme Court of India, emergency powers of the President of India and the financial relations between the Union and the States. Nehru assured the Conference leaders that the application of the Constitution of India to the State would ensure the people of the State, the rights and liberties and the legal protection the Constitution of India envisaged and remove the psychological barriers between them and the people of the rest of the country. He further pointed out to the Conference leaders that the financial integration of the State, would enable the Interim Government to stabilise the delipidated economy of the State and put it on an even course of future development.

The Conference leaders, however, refused to accept any extension of the Constitution of India to the State. Their main contention was that the Constituent Assembly of the State drew its powers from the people of the State and not the Constituent Assembly of India. Therefore, the Conference leaders claimed, that the Constituent Assembly exercised plenary powers to determine the form and nature of the constitutional instruments it would created, independent of the Constitution of India. They emphasised that except for the delegation of the powers to the Union, the Instrument of Accession stipulated, the State of Jammu and Kashmir retained its separate and independent identity. The Conference leaders claimed that the Jammu and Kashmir State did not form a part of the republic of India, and consequently it was not subject to the jurisdiction of the Union.

The Conference leaders objected to the application of the Indian citizenship to the State, on the ground that the provisions of the Constitution of India would impinge upon the State-subject rules, which prohibited non-State-Subjects from owning land and imovable property in the State and reserved services and scholarships exclusively for the State-subjects. The Conference leaders expressed the fears that the infringement of the State-Subject rules would adversely affect the economic

and political interests of the people of the State, who were economically and educationally backward.

The Conference leaders objected to the application of the provisions of the Indian Constitution in respect of the fundamental rights and related legal guarantees as well as the jurisdiction of the Supreme Court to the State, on the ground that the economic reforms, mainly the land legislation undertaken by the Interim Government, conflicted with the right to equality and right to property enshrined by the Constitution of India. Afzal Beg, who was deadly opposed to the application of the fundamental rights to the State for other political reasons, stunned the Indian leaders, when he told them that the extension of the jurisdiction of the Supreme Court of India would affect the personal law of the Muslims in the State.

Nehru assured the Conference leaders that the provisions of the Constitution of India in respect of citizenship and fundamental rights, would be extended to the State with such expections as would save the State-Subject rules and the land reforms from any irreconcibility with them. He assured them further, that the original jurisdiction of the Supreme Court alone, would be extended to the State.

After long deliberation a settlement was finally reached between the Conference leaders and the Indian leaders. The settlement was embodied in an agreement, which later came to be known as the Delhi Agreement. The Agreement stipulated that the Dogra rule would be abolished and the ruler would be replaced by an elected head of the State, who would be recognised by the President of India. The Indian leaders accepted that the State would have a separate national flag, a separate official language, and a separate national emblem. It was also agreed upon that the residuary powers would remain with the State and the Constituent Assembly would frame a constitution for its government.

The Conference leaders agreed to accept the application of the provisions of the Constitution of India, in respect of the Indian citizenship, to the State with two exceptions that (a) the State Legislature would be reserved the powers to define the Permanent Residents of the State and determine and regulate their special rights, "in regard to the acquisition of immovable property, appointments to services and like matters;" and (b) special provisions would be made for the State-Subjects who had migrated to Pakistan in 1947, and who sought to return to the State for permanent settlement.

Agreement was reached that the provisions in regard to the fundamental rights and the related constitutional safeguards would be extended to the State, with exceptions which, saved the land reforms legislation undertaken by the Interim Government, and vested powers with the State Government to provide for certain special exigencies in the State. The agreement stipulated:

(i) that the provisions of the Constitution of India in regard to the fundamental rights and related legal guarantees would be extended to the State, with exceptions so that the land reforms undertaken by the Interim Government were not affected;

(ii) the original jurisdiction of the Supreme Court of India including its jurisdiction to enforce fundamental rights would be extended to the State.

During the deliberations, the Indian leaders proposed the application of the provisions of the Constitution of India to the State in respect of the emergencies arising out of a war, aggression and internal disturbance. In view of the reluctance of the Conference leaders to accept the proposals, the Indian leaders offered to make an exception in respect of emergency arising out of internal disturbances. The Conference leaders, cleverly, forestalled the issue and asked for some more time to consider the issue further. The Conference leaders avoided a settlement on financial integration as well, and told the

Indian leaders that the modalities of the financial integration of the State, would be finalised after further detailed deliberations with them.

Nehru sought an assurance from the Conference leaders that before the constitutional changes, embodied by the Delhi Agreement, were implemented, the Constituent Assembly would adopt a resolution which would reaffirm the accession of the State to India. Such a resolution, Nehru contended, would put many controversies about the Constituent Assembly and its powers to decide the disposition of the State, at rest.

Nehru sought a further assurance from the Conference leaders that the changes in the constitutional organisation of the State would be implemented simultaneously with the implementation of the other provisions of the Delhi Agreement. An understanding was also reached between Nehru and the Conference leaders that Yuvraj Karan Singh would be elected the first Sadar-i-Riyasat of Jammu and Kashmir.

The Delhi Agreement was placed on the table of the Constituent Assembly of the State on 11 August, 1952. In his address, Seikh Mohammad Abdullah gave a version of the Agreement, which varied from the stipulations of the actual Agreement. He stated in the Constituent Assembly that the Agreement envisaged tentative decisions and that the Constituent Assembly would determine the final form of the constitutional relations between the State and the Union of India. He stated: "Here I would like to point out the fact that Article 370 has been mentioned as temporary provision in the Constitution does not mean that it is capable of being abrogated, modified, replaced unilaterally. In actual effect the temporary nature of this Article arises merely from the fact that the power to finalise the Constitutional relationship between the State and the Union of India has been specially vested in Jammu and Kashmir Constituent Assembly. It follows that whatever modifications, amendments, or exceptions, that may became necessary either to Article 370 or any Article in the

Constitution of India in their application to the Jammu and Kashmir State, are subject to the decisions of this sovereign body.[9]

An acrimonius debate followed in the Constituent Assembly. Many members of the Assembly voiced their disapproval of the application of the Constitution of India to the State in respect of citizenship, fundamental rights and the jurisdiction of the Supreme Court. They expressed serious misgivings about the stipulations of the Delhi Agreement, which they feared would pave the way for the abrogation of Article 370 and the integration of the State into the constitutional organisation of India.[10]

The more critical comments on the Delhi Agreement were made by the members of the Constituent Assembly close to Afzal Beg and Sheikh Mohammad Abdullah. Starting disclosures were made, that many of the speeches delivered in the Assembly, were based upon the briefings received from Beg. Both Beg and Sheikh Mohammad Abdullah sought to arouse the Muslim opinion against the Delhi Agreement. The pretentious claim to freedom and the Muslim identity of the State made in the Assembly, were orchestrated with perfect theatrical effect. Afzal Beg assured the members of the Assembly, that Article 370 of the Constitution of India was provisional in nature, because, the finality of the constitutional relations between the State and the Union of India were subject to the decision of the Constituent Assembly Beg covertly suggested that the provisional nature of Article 370, emanated from the provisional nature of the accession of the State to India. "Nobody here," Beg stated in the Assembly, "could entertain the idea that Kashmir will be dragged to the position of Part B States. I may make it clear on the floor of the House that Kashmir will never come to the position of Part B States. We have good reasons for that."

Shortly after the Assembly session, a widespread campaign denouncing the Delhi Agreement was initiated by the rank of

file of the Conference. The Conference cadres, with members of the Constituent Assembly in the vanguard openly expressed their dissatisfaction with the stipulations of the Agreement and alleged that the application of the Constitution of India in regard to the citizenship, fundamental rights and the jurisdiction of the Supreme Court, would destroy the Muslim majority character of the State.

The Drafting Committee of the Constituent Assembly, presented its report to the Assembly on the future of the Dogra rule and the election and tenure of the President of State, the Sadar-i-Riyasat on 19 August 1952. A draft resolution which embodied the proposed changes and amendments in Jammu and Kashmir Constitution Act of 1939, was appended to the report of the Committee. The report of the Committee along with the resolution was approved by the Constituent Assembly on 21 August 1952. The resolution stipulated that the head of the State, would be elected and recognised by the President of India, that he would remain in office for a period of five years, and that he would exercise such powers as were exercised by the ruler of the State.[11]

During the deliberations at Delhi, an understanding was reached between the Conference leaders and the representatives of the Government of India, that any constitutional change brought about by the Constituent Assembly would be preceded by a resolution of the Assembly, reaffirming the accession of the State to India. The Constituent Assembly did not adopt the resolution. In Delhi, the Conference leaders, had accepted that the Delhi Agreement would be implemented in its entirety and the provisions of the Constitution of India would be extended to the State, simultaneously with the changes, in the constitutional organisation of the State. Uneasy days passed by but the Constituent Assembly did not proceed to implement the other provisions of the Delhi Agreement, nor did it adopt the resolution affirming the accession of the State to India.

Disquiting rumours circulated in the State and the Indian

capital. Intelligence reached the Government of India the Sheikh Mohammad Abdullah was no longer inclined to elect Yuvraj Karan Singh the Sadar-i-Riyasat, and he was secretly preparing to install a Hindu from the Jammu province, who belonged to the Scheduled Castes, instead. Sheikh Mohammad Abdullah aimed to win to his side the lower castes among the Hindus in Jammu to neutralise the resistence the Hindus offered to the policies, the National Conference had embarked upon.

Nehru felt score over the developments in the State and conveyed to the Conference leaders that the Government of India would recognise none else than Karan Singh as the President of the State. He also conveyed to the Conference leaders that if they were not prepared to elect Karan Singh, the Government of India would not allow the termination of the Regency.[12]

Silence fell on the scene for some time. The Government of India, conveyed its concern to the Interim Government over the fact, that no steps were being taken to implement the other stipulations of the Delhi Agreement and the Constituent Assembly had yet to adopt the resolution to reaffirm the accession of the State to India, which had been accepted as a precondition to any constitutional change in the State.

**Sadar-i-Riyasat**

Delhi Agreement was received with disgust by the Hindus and the other minorities. They harboured grave apprehensions about the separate constitutional organisation of the State which they alleged was aimed to consolidate the secessionist forces. The reaction of the Hindus in Jammu was actively hostile. The Agreement caused considerable consternation to the Buddhists in Ladakh as well, who were opposed to any half-way measures, which did not lead to the integration of the frontier division with the Indian Union.

The Hindus in Kashmir, were distressed by the Delhi

Agreement and the events which followed it. They denounced the Delhi Agreement as a surrender to Muslim communalism. They were a witness to the betrayel of the ideals, the National Conference had espoused. They realised more clearly than anybody else, the intentions of the Conference leaders, whose pronouncements had caused enough uncertainty among the people in the State. Several of their leaders, conveyed their disapproval of the arrangements envisaged by the Delhi Agreement. "We warned the Government of India, that any further delay in the integration of the State with India, the process of rapid communalisation of the society in the State and the political isolation of the Kashmiri Pandits, was, ultimately aimed to carve out an independent State of Jammu and Kashmir. The Muslim officials, Conference activists, the newly formed rich classes of the Muslim society and a large section of the Muslims, who supported the accession of the State to Pakistan, openly canvassed support for an independent State of Jammu and Kashmir. For the Kashmiri Pandits and Sikhs, the independence of Kashmir was bound to bring them the deluge.

The Hindus in Jammu, constituting a majority in the Jammu Province, protested against the Delhi Agreement, which they claimed confirmed the exclusion of the State from the Indian constitutional organisation. The Praja Parishad reactivated its cadres for a civil disobedience movement, which they pledged to launch if the Government of India did not put an end to the widespread political uncertainty which prevailed in the State and integrate it with the rest of the country. The Parishad emphasized that India was one nation and the Jammu and Kashmir State, an integral part of the Indian nation, could not be governed by a separate constitution, fly a separate flag and have a separate President.

The Parishad leaders alleged that the Delhi Agreement would prepetuate the communal imbalances, which the Interim Government had engendered in the State, "The Parishad leaders further alleged that the Delhi Agreement would perpetuate

the Provincial dominance of the Kashmir over the regions of Jammu and Ladakh and aggrevate the communal imbalances which the Interim Government had fostered in the State. The Parishad demanded:[13]

(i) the Jammu and Kashmir State should be fully integrated in the Indian Union;
(ii) the State should be brought within the constitutional organisation of the Indian Union and the application of the Constitution of India should be extended to the State in its entirity;
(iii) the jurisdiction of the Supreme Court of India should be extended to the State without any reservations;
(iv) the customs barriers between the State and the Indian Union should be abolished;
(v) the division of powers between the State and the Union should be determined by the Seventh Schedule of the Constitution of India;
(vi) free and fair elections should be held to the Constituent Assembly of the State;
(vii) an impartial tribunal of enquiry should be instituted to investigate the charges of corruption against the Interim Government;
(viii) in case the State was not fully integrated with the Indian Union, Jammu Province and Ladakh should be separated and merged with India, leaving the Province of Kashmir free to limited accession, Article 370 envisaged.

The Praja Parishad demand for the termination of the separate political organisation of the State and its integration in the Indian constitutional structure evoked widespread support in the entire country. The major Hindu political organisations in India, including the Bhartiya Jana Sangh, pledged their support to the Parishad. Most of the Hindu organisations expressed the fears that the claim to a separate political identity for Jammu and Kashmir on the basis of the

Muslim majority character of its population, would eventually lead to the growth of Muslim separatism in the State, which would be exploited by Pakistan to further its territorial interests in the north of India. Many of the organisations charged the Interim Government and the Government of India of seeking to add to the deep instability prevailing in the State which the exclusion of the State from the Indian political culture, had engendered.

The Conference leaders condemned the Praja Parishad movement as an expression of Hindu communalism and a part of the wider resurgence of Hindu reaction in India. They accused the Parishad of conspiracy to undo the autonomy of the State and its separate political identity, which the people of the State considered the sole guarantee of their freedom. They alleged that the Praja Parishad movement was aimed to forestall the decision of the Interim Government to abolish the Dogra rule and undo the economic and political reforms, the Interim Government had undertaken.

The Constituent Assembly terminated the regency of Yuvraj Karan Singh in November 1952. The Yuvraj was elected the Sadar-i-Riyasat. When Karan Singh arrived in Jammu, after he was installed in his new office, he was greeted with black flags by the Praja Parishad demonstrators. The Parishad charged Karan Singh of having betrayed the trust which had been reposed in him as the Regent of the State.[14]

After the termination of the Dogra rule, the National Conference did not adopt any measures to implement the other provisions of the Delhi Agreement. The Conference leaders did not move any resolution in the Constituent Assembly to reaffirm the accession of the State to India, which the Conference leaders had agreed to adopt before the provisions of the Delhi Agreement were implemented by the Assembly. Instead, Sheikh Mohammad Abdullah instructed the Drafting Committee of the Constituent Assembly to proceed ahead with the task of framing the draft constitution of the

State. He, however did not give the Committee any directions to incorporate the stipulations of the Delhi Agreement in the draft constitution. He advised the Committee to reexamine the political arrangement which the Delhi Agreement envisaged. He asked the Drafting Committee to submit its report to the Working Committee of the National Conference. "Sheikh Sahib instructed us to prepare drafts of the Constitution of the State. After a great deal of cutting and pruning, several drafts were drawn up. Beg Sahib drew up a separate draft. Professor Bhan also prepared a draft. Sheikh Sahib asked us to place all the drafts before the Working Committee. Before the drafts were presented to the Working Committee we went to Jammu to meet Bakhshi Sahib and showed him the drafts. Bakhshi Sahib said that the drafts would set India ablaze, because the Indian people would clearly see that Kashmir wanted to leave India. A crisis would follow."[15]

The drafts were placed by the Drafting Committee before the Working Committee of the Conference. After an inconclusive debate in the Working Committee, Sheikh Mohammad Abdullah constituted a Legal Experts Committee of the members of the Working Committee, to examine the various drafts and report on them. The Committee was constituted of Mirza Afzal Beg, Gulam Mohammad Sadiq, Syed Mir Quasim, Abdul Gani Goni and Gulam Mohiudin Hamdani. The Hindu and Sikh members of the Working Committee were not included in the Legal Experts Committee. The Committee did not function smoothly, and before it was able to evolve any framework of the constitution of the State, it was wound up.[16]

Meanwhile reports trickled out of Srinagar about meetings, held secretly, between the Conference leaders and several senior American statesmen. Reportedly, the Conference leaders solicited support from the United States of America for the independence of the State. They sought to assure the American diplomats that independence of the State was the only way to bring lasting peace to the sub-continent and satisfy the

aspirations of the Muslims of Kashmir. Many years later, evidence came to surface that the reports about confabulations in which the American statesmen were involved, were largely true.

The Conference leaders met Adlai Stevenson on 1 May, 1953. A second meeting between them was held the next day. Later the Conference leaders had several meetings with Loy Henderson, the American Ambassador to India. *The Times*, London, observed, "Sheikh had made it clear that he was as much opposed to the domination of India as to the subjugation of Pakistan. He claims sovereign authority for the Kashmir Constituent Assembly, without limitations by the Constitution of India and this stand has strong appeal to Kashmir on both sides of the cease-fire line, and if this movement of purely Kashmir nationalism was to gain ground it might well oblige India, Pakistan and U.N. to modify their views about what ought to be done next."

The American Secretary for State, John Foster Dulles paid a visit to the Indian subcontinent in the last week of May. Reports about his visit revealed that he favoured the independence of the State. The *New York Times* commented: "The solution of Kashmir dispute envisaged a special status for the Kashmir Valley, possibly independence, guaranteed by both countries, and partition of the rest of the State along lines occupied by the opposing armies under cease-fire agreement." The comment added: "It is rummoured that U.S. Secretary of State, Dulles, supported the solution of this nature for the long outstanding quarrel."

While the western powers were secretly seeking to include Jammu and Kashmir into an Asian alliance — system to contain communism, the communists in India and the left factions in the National Conference, followed a course aimed to secure Soviet interests across the Himalayas. They conjured up national divisions in India, which they claimed represented the Indian nationalities. Among them, the communists

visualised the Muslims of Jammu and Kashmir as a nationality, whose struggle for self-determination was aimed at "the realisation of freedom, democracy and peace, for the end of monarchy, for people's democratic state and for friendly relations with the Soviet Union, the People's Republic of China and other neighbouring Countries." The Communist Party of India denigraded the Delhi Agreement and accused the Indian Government of using pressure to subvert the movement for freedom of the people of the State, which Sheikh Mohammad Abdullah led. "The march of the people towards democracy," the Communist Party official news-journal commented, "alarmed New Delhi. The sceptre of its inspiring examples for the people of the other States in India and its repercussions on them hovered over New Delhi. Hence the feverish negotiations. Gone is the pledge of the Nehru Government to respect the sovereign will of the Kashmir people through their Constituent Assembly. The Assembly's function is only to register the decision of the Government of India and the Indian Government will parade it before the world as the democratic will of the people of Kashmir. "The news journal added, "It is clear that Sheikh Mohammad Abdullah and Kashmir leaders are subject to tremendous pressure of the Government of India." The comment continued, "The Kashmiri delegation is being forced to accept Government of India terms."

Sheikh Mohammad Abdullah played his part adroitly well. He played double with the Communists too, assuring them that his quest for the freedom of the State was motivated by the desire to uphold self-determination of the nationalities in India, which he emphasised would lead the people of Jammu and Kashmir to revolutionary struggle against imperialism.

After the Delhi Agreement was signed, several leaders of the Communist Party of India chided Sheikh Mohammad Abdullah for having surrendered to Nehru. Sheikh complained that he had been coerced to accept the terms of the Agreement.

The left leaders, inside the National Conference, gloated over the "historical role" they claimed, they played to convert Kashmir into a base for revolutionary change in India as well as Pakistan with the help of Soviet Union and China. The left flanks in the National Conference, claimed in utter self-conceit, that Kashmir would become the "Yinan of India."

The shift in the outlook of the National Conference had a devastating effect on its leadership. A section of the leaders and cadres of the Conference, favoured accession of the State to Pakistan and extended its support to Sheikh Mohammad Abdullah only to the extent, he symbolised residence against India. They did not approved of the division of the State by virtue of which the occupied territories would be merged with Pakistan and the trans-Chenab regions of the Jammu Province would be integrated with India, separating the Kashmiri-speaking Muslims into an independent State. A large section of the National Conference leadership was frightened by the large scale internecine strife, that would inevitably follow any conflict with India. They feared retaliatory action from the Hindus and the Sikhs in Jammu and Ladakh, which would bring disastour to the Muslims in the Jammu Province and isolate the Kashmiri-speaking Muslims. They did not support the independence of the State, which they alleged would destroy the unity of the Muslim of the State, as well as end its Muslim majority character. They too favoured a settlement with Pakistan as an alternative to India, but harboured severe doubts about the movement for the independence of the State.

Pakistan too had its own stakes in the crisis that was brewing in the State. Pakistan had encouraged the Conference leaders in their quest for independence, mainly to break up the consensus in the Conference on the accession of the State to India, and isolate Sheikh Mohammad Abdullah from the Muslims who favoured Pakistan as well as the Hindus and the other minorities who supported the accession of the State to India. The Government of Pakistan was aware of the fact

that the movement for independence was bound to destroy the foundations of the National Conference and consume the Conference in its flames. The disintegration of the Conference and the communal divide which would inevitably follow the shift in the ideological commitments of the National Conference would leave the field open for the pro-Pakistan forces to operate. Finding the time ripe to strike at the roots of the Conference, Pakistan pressed its supporters in the State to insist upon the option of self-determination and accession to Pakistan. As the Pro-Pakistan forces and the section of the Conference leaders turned against independence, Sheikh Mohammad Abdullah and his supporters were strung in the middle. Afzal Beg made feverish attempts to convince Pro-Pakistan Muslim factions, which he had helped to grow into a formidable force, that his demand for the independence of the State would ultimately lead to the self-determination of the Muslims of the State. But, the pro-Pakistan elements followed their own direction. They denounced India; they denounced the independence of the State as well. From Azad Kashmir Radio in the occupied territories, they broadcast to the Muslims of Kashmir, exhorting them to fulfil their duty ordained upon them by divine dispensation and unite for their freedom which had been userped by India.

The rapidly deteriorating situation in Jammu and Kashmir alarmed the Congress leaders. Nehru arrived in Kashmir in May 1953, while the rumours about the shift in the outlook of the National Conference circulated faster. In Srinagar, he had a long meeting with Sheikh Mohammad Abdullah. He expressed strong disapproval of the pronouncements of the Conference leaders about the future constitutional organisation of the State, its relations with India and its future affiliations. He told Sheikh Mohammad Abdullah that the Government of India did not approved of the separatist trends which had grown in the National Conference and which the Interim Government had failed to suppress. He emphasised that the Government of India had "no intention of interfering with

the internal affairs of the State so long the State was a part and parcel of India." Nehru handed over a note to Sheikh Mohammad Abdullah in which he conveyed to the Conference leaders, stipulating the considered opinion of the Government of India in regard to the constitutional issues, which had become an object of controversy in the State. Nehru accused the Conference leaders of having abandoned their commitment to support the accession of the State and preaching independence of the State. Nehru denounced the independence of the State as a dangerous proposition which would embroil the whole subcontinent into a wider conflict. "He conveyed to Sheikh Mohammad Abdullah that he would prefer to handover the State to Pakistan on a platter rather than support its independence and allow it to be turned into a centre of international intrigue and endanger both India and Pakistan." In his communication, Nehru stressed the need to integrate the State in the constitutional organisation of India, and extend to the State the application of the provisions of the Constitution of India in respect of citizenship, fundamental rights, jurisdiction of the Supreme Court and the division of powers on the basis of the Delhi Agreement.[17]

Nehru also attended a meeting of the Working Committee of the National Conference, which had virtually to approve the Delhi Agreement. Bakhshi Gulam Mohammad and Gulam Mohammad Sadiq apprised him of the deep division in the Conference leadership on the basic issues, involving the future disposition of the State, its relations with the Union of India and its constitutional organisation. They admitted that a section of the Conference leadership supported the independence of the State. They informed Nehru that they along with a section of the Conference leadership considered independence of the State as an untenable proposition and favoured a readjustment of the constitutional relationship between the Union and the States. Nehru informed Bakhshi and Sadiq of his conversation with Sheikh Mohammad Abdullah and gave them an account of the contents of the brief he had handed over to the latter.[18]

After Nehru's departure uncertainty deepened in the State. Reportedly, Nehru sought the opinion of the Conference leaders, which would provide him a general guideline in his discussions with the Prime Minister of Pakistan, scheduled to be held in July. Perhaps, he attempted to reassure the Conference leaders that the Government of India would not accept any settlement with Pakistan which the National Conference did not approve. Intriguingly enough, Nehru did not seek the opinion of the Hindus and the other minorities, though he had adequate information that the political base of the National Conference had narrowed down to the Kashmiri-speaking Muslims, alienating the Hindus, the Sikhs and Buddhists, who constituted a little less than half the population of the State.

Nehru received several proposals from the Conference leaders, which they claimed provided "possible alternatives for an honourable and peaceful solution of the Kashmir dispute between India and Pakistan." The proposals envisaged:[19]

(i) plebiscite, which would elicit opinion on (a) accession to Pakistan, (b) accession to India and (c) independence of the State;
(ii) independence of the State, including the territories under the occupation of Pakistan;
(iii) independence of the whole State which would be subject to the joint control of India and Pakistan;
(iv) Dixon plan, with independence for the area, where the plebiscite was proposed.

The Dixon Plan envisage the trifurcation of the State: the integration of the Hindu majority districts of the Jammu.

Province with India; the merger of the occupied territories of Azad Kashmir with Pakistan and plebiscite in the Kashmir Valley and the Muslim majority districts of the Jammu province. The Dixon Plan virtually proposed the secession of almost the entire State from India, except the Hindu majority districts of

Jammu Province, east of the Chenab river.[20]

The proposals made by the Conference leaders, virtually repudiated the accession of the State of India. The proposals demonstrated that the Conference leaders used the accession of the State to India to countermand the claim Pakistan laid to the State on the one hand, and on the other hand, use the Muslim majority character of its population to ensure the exclusion of the State from the Indian political organisation in order to prepare the ground for its independence. A Muslim State of Jammu and Kashmir under the protectorate of India, till its final disposition was decided by a plebiscite, kept the door open for the secession of the State from India and its eventual independence.

Nehru invited Sheikh Mohammad Abdullah to Delhi for talks. Abdullah expressed his inability to leave the State in view of the distraught political situation prevailing there.

Nehru sent Maulana Azad to Srinagar to persuade the Conference leaders to accept his proposals to negotiate a settlement of the differences that had cropped up between them and Conference leaders, that the Government of India would recognise the separate political identity of the State, as a basis for a settlement with them. Azad followed the same course to deal with the Muslim majority state of Jammu and Kashmir, which he had adopted to provide the foreground to the Cabinet Mission Plan in 1946. In his negotiations with the Cabinet Mission, he had offered to accept the separate political identity of the Muslim majority provinces in India as a basis for the Indian unity. The acceptance of the "Grouping" of the provinces, the Cabinet Mission envisaged, led to disasterous consequences. His attempt to buy the Muslim support in Jammu and Kashmir, by accepting to recognise its separate political identity which did not form a part of the constitutional organisation of India, led to consequences, which were devastating. The Conference leaders ignored his remonstrations for a compromise.

Azad was in Srinagar on the day of the Id, the Muslim festival. He went to attend an *Id* congregation at *Idgah,* the local Muslim prayer ground in the city. The *Id* congregation was a purely religious affair and offered no occasion for him to unfold his scheme of autonomy, which he had been entrusted to convey to the Muslims in Kashmir. Azad swore by secularism; but in Jammu and Kashmir, he did not shirk from using the pulpit to communicate with the Muslims, a tradition, which had been used as an effective instrument by the National Conference. Indeed, he ardently supported the recognition of the communal precedence of the Muslim majority in Jammu and Kashmir, though he vehemently opposed the acceptance of the precedence of the communal majorities in any other Indian State, where the Muslims were in minority.

Azad received a rebuff, for when he rose to address the *Id* congregation, the people, who had heard Sheikh Mohammad Abdullah in rapt attention, broke away and quickly dispersed. Azad stood on the pulpit dumbfounded.

After his return, Azad took another fateful step. He sent a long communication to Sheikh Mohammad Abdullah in which he conveyed to the Conference leaders, the readiness of the Government of India, to declare the special provisions envisaged by the Article 370, permanent and unalterable.

Sheikh Mohammad Abdullah rejected Azad's offer. He wrote to Azad: "It should not be forgotten that this is temporary or provisional relationship as the contending parties have yet to settle the future of the State according to the wishes of the people." Abdullah wrote further: "Although such a declaration would be welcome, it remains to be seen if it would draw the support of the different sections of people in India and parties in Kashmir. You would appreciate that without such support, this declaration would not suffice to dispel the fears that have arisen in the minds of people of Kashmir. A big party in India still forcefully demands merger of the State with India. In the State itself Praja Parishad is threatening to resort to direct

action if the demand for State's complete merger with India is not conceded."[21]

In a clever manoeuvre, Sheikh Mohammad Abdullah sought to use Hindu agitation in the State and the widespread sympathy it aroused among the Hindus in India, to reject the declaration, Azad proposed. Evidently, no government of India could silence the opposition, rife among the Hindus in India, against the Muslimisation of the State, which its separate political identity virtually underlined. Sheikh Mohammad Abdullah demanded from Azad an assurance that the Hindus in Jammu and Kashmir, would submit themselves to the servitude of a Muslim State, the National Conference sought to establish. Since no such assurances could be secured from the Hindus in India and Jammu and Kashmir, the National Conference could not rely on the declaration Azad proposed. Abdullah wrote to Azad: "I do not understand how in the face of this stiff opposition, your proposed declaration would be able to reconcile different points of view that have arisen concerning the issue of Indo-Kashmir relationship. Assuming such an agreed solution to be possible, it still had to be seen if the resultant beneficiary would accrue equally and fairly to all sections of people in the Stage."[22]

Sheikh Mohammad Abdullah wrote to Azad, that the Conference leaders, had evolved, after due deliberation, alternative proposals for a settlement of the Kashmir dispute. Beg and Bakhshi Gulam Mohammad, Abdullah informed Azad, were deputed to convey the proposals to him. Abdullah expressed fears that a plebiscite, to which India was committed, would lead to many difficulties because of the mixed population of the State. The National Conference, he informed Azad, proposed alternatives which could form the basis of a settlement of the dispute, acceptable to all parties. Interestingly, the alternative proposals revolved round the Dixon Plan, which sought the division of the State between India, Pakistan and the Muslims of the Kashmir Valley. He wrote to Azad: "Naturally only that solution will be satisfactory which is

honourable and acceptable to all parties concerned. Today, the contending parties are, between themselves and internationally, committed to the principle of free and impartial plebiscite. Mixed population would naturally give rise to many difficulties and real problems. We have carefully weighed the various pros and cons and have reached certain conclusions after careful deliberations over these matters. Bakhshi Sahib and Beg Sahib have been directed to convey these decisions to you."[23]

After the Conference leaders had conveyed to Azad their preference for independence of the Kashmiri-speaking Muslims, they launched a tirade against India and accused the Indian people of attempting to userp the freedom of the people of Jammu and Kashmir. On 13 July 1953, on Martyres Day, Sheikh Mohammad Abdullah told a Muslim congregation at the Martyres. Memorial in Srinagar in the Muslim Shrine of Nakshband at Khanyar that the support India had given to the Praja Parishad had violated the agreements between the National Conference and the Government of India. He also claimed that the people of the State had made sacrifices for their own freedom and they did want to bring about the accession of the State to either of the two States, India and Pakistan. On 25 July 1953, Sheikh Mohammad Abdullah told a rally of the workers of the National Conference, that the demand for the integration of the State in the Indian constitutional organisation had shaken the faith of the Muslims in the accession of the State to India.

On 6 August 1953, a statement was issued to the Press by Maulana Syaeed Masoodi, the General Secretary of the National Conference. The Maulana stated:[24]

"The fact of the matter is that there is a deleberate attempt on the part of those who do not view Kashmir's present position with favour, to cloud the real issue so as to escape responsibility for the harm that has been caused to the Indo-Kashmir relationship by the support given to the recent agitation

of Kashmir's merger with India. The real issue, it should be realised, is that there are people in India, who are not prepared to see Kashmir maintain its existing position. They are angry that Kashmiris should remain aloof both from India as well as Pakistan; one should not work on self up necessarily to see this view being expressed. Instead,it should be examined dispassionately. Then only can there be possible a correct appraisal of the situation in Kashmir. If Kashmiris rose as one man against Pakistan, it was because they saw that, that country wanted to force them into a position which they were not prepared to accept. If today demands are made in India which endanger the present autonomous position of the State and realising this danger, the people of Kashmir feel inclined towards a third alternative, it is not they who should be blamed for it but those who are the root cause of it. It will not do to point out the defects of this or that alternative. What is required is to remove the causes which have led to this line of thinking. All those people in India, who are honestly interested in Kashmir and India thrive together on the basis of a willing, not forced association should come into the field and organise the Indian public opinion against this movement for the merger of the State. The communal and reactionary forces, within the State who have made Sheikh Abdullah's task difficult should be exposed and no quarter given to them. The difficulties referred to by Sheikh Sahib in his recent speeches should be appreciated clearly and honest efforts made to remove them. Above everything else those who are thinking in terms of solving the difficulties by creating dissension within the National Conference should realise that the people of Kashmir, who the National Conference has the privilege to represent, will not countenance any such move from any quarter. Such tactics as these are not going to help a solution of the problems confronting India and Kashmir. Never before has there been a greater need for a clear understanding of the Kashmir problem as it is today."

Masoodi, with an incredible sense of self-righteousness,

claimed for the Muslims of Kashmir the right to search for fresh alternatives to the accession of the State, because they were "inclined to keep aloof from India as well as Pakistan." He accused the reactionary forces, in India, mainly the Hindus of having made the task of the National Conference difficult by making demands for full integration of the State with India. Masoodi exhorted the people of India to organise Indian opinion, in support of the Independence of the State which would lead to a willing association between India and Jammu and Kashmir.

**Dismissal of Sheikh Mohammad Abdullah**

Masoodi's statement delivered a stunning blow to the Government of India. By the time, Masoodi's statement appeared in the Press, the Indian Government, had decided to dismiss the Interim Government. A secret understanding had been reached with Bakhshi Gulam Mohammad and Gulam Mohammad Sadiq, who did not support Sheikh Mohammad Abdullah, about the dissolution of the Interim Government and the dismissal of Sheikh Mohammad Abdullah. Decision had also been taken that Bakhshi Gulam Mohammad would constitute the new Interim Government.

The Indian Government was aware of the upheaval, the dismissal of Sheikh Mohammad Abdullah would cause. The first Interim Government had prepared the Muslim opinion for the secession of the State, allowed the pro-Pakistan forces to reconsolidate their strength, and Muslimised the whole administration and bureaucracy to ensure its support. Expectedly, the dissolution of the Interim Government was bound to have far-reaching repercussions on the Muslim opinion in the State. With the widespread network of the intelligence agencies of Pakistan operating in the State, the secessionist forces, now joined by a section of the National Conference leadership had assumed formidable strength. The optimism, the Indian Government had harboured about a referendum, envisaged by the United Nations resolution, was dashed to the ground.

The Congress leaders had, once again, erred in reading the real character of Muslim communalism. They had repeated their mistake to recognise Muslim communalism as a factor in the balance of power, which they had devised as a basis for the constitutional relationships between a secular India and the Muslim majority State of Jammu and Kashmir. Nehru supervised the whole operation to remove Sheikh Mohammad Abdullah personally.

**Second Interim Government**

Major General Hira Lal Atal was the Commander of the 21 communication Zone, later known as the Fifteen Corps. Atal commanded four divisions of the Indian army, spread over nearly 310 miles of the Indian frontier from Tithwal in the West and Chushul in the East and Pathankot in the South. Atal, a Brigadier in the Indian Army, was deputed as the Liaison Officer, with the contingents of the First Sikh Regiment, airlifted to Srinagar on 27 October in 1947. Nehru summoned Atal to Delhi in the middle of July 1953. A Conference was held by Nehru with Atal in the presence of the Commander of the Indian Army. Nehru told Atal that the situation in the State was far from normal and the continuation of the present government in the State was fraught with danger. "I am not very happy with the happenings in Kashmir," Nehru confided in Atal, "and I wish you to be vigilant and to be of all assistance, that you can to the Government of the State."[25]

Atal brought into Srinagar, a sizable number of troops in a neat operation. The troops were evidently, meant to be deployed on internal security duty on 7 August 1953. Atal had a meeting with Bakhshi Gulam Mohammad. Atal had received information from his Divisional Commander that the State Government had taken the decision to dismiss the Interim Government and arrest Sheikh Mohammad Abdullah during the night of 9 August 1953. He was also informed that Sheikh Mohammad Abdullah would be interned at the Government Guest House, Udhampur.

Sheikh Mohammad Abdullah was arrested at Tangmarg, a hill-resort in the close vicinity of Srinagar, during the night of 9 August 1953. The Sadar-i-Riyasat, Yuvraj Karan Singh instituted a new Interim Government with Bakshi Gulam Mohammad as the Prime Minister. Beg and several other leaders of the National Conference were also put under arrest. The Army Commander and the Sadar-i-Riyasat kept Nehru regularly informed about the developments in the State.

Widespread rioting followed the deposition of Sheikh Mohammad Abdullah. The whole pro-Pakistan underground, the Muslim bureaucracy, the Muslim middle class, the flanks of mercenaries rared by the National Conference and the Muslim clergy, joined the rank and file of the National Conference in protest against," subversion of democracy in the State." Masses of Muslim demonstrators, which clashed with the Indian security forces at many places called for the withdrawal of the Indian troops from the State and demanded the implementation of the plebiscite under the aegis of the United Nations.

The demonstrators asked the Muslims of the State to prepare for a crusade against India. In their protest against India, the National Conference cadres were joined by the flanks pro-Pakistan activists, who had consolidated their strength considerably due to the drift in the Interim Government and the agents of Pakistan who operated a widespread network of intelligence agencies in the State. The Indian leaders grouped in the dark; they did not muster courage to face the Muslim reaction with resoluteness and reject Muslim separation as a basis for a settlement of the future of Jammu and Kashmir. They held out assurances that India would neither abandon its pledges to a plebiscite in the State, nor repudiate its commitment to accept Muslim precedence as a basis of the Constitution of the State. The National Conference leaders and their supporters swore vengence against Bakshi Gulam Mohammad and the Conference leaders and cadres, who

supported the second interim Government. The paul of fear was broken by the Hindus in Kashmir, who swarmed into the streets, in support of the second Interim Government. Muslims joined them later, after they had drawn their price from Bakshi Gulam Mohammad.

Bakshi Gulam Mohammad was a shrewd politician and he did not take long to establish his hold over the National Conference. In September 1953, the General Council of the Conference approved the change in the Conference leadership and elected Bakshi, the President of the Conference. Simultaneously he assumed the office of the Chairman of the Muslim Endowment Trust, the Awkaf Islamia. On 5 October, the Constituent Assembly adopted a vote of confidence in the second Interim Government. Bakshi used intimidation and appeasement in equal measure, to win over the Muslims to his side. He achieved his first success, when he secured the vote of confidence in the Constituent Assembly. Only five members of the Constituent Assembly, including Sheikh Mohammad Abdullah and Afzal Beg, who were in prison, did not participate in the deliberations of the Assembly.

The Constituent Assembly reconstituted the Basic Principles Committee and the Advisory Committee on citizenship and Fundamental Rights, the Steering Committee and the Drafting Committee. The Delhi Agreement concluded between the Conference leaders and the representatives of the Indian Government in 1952, which was still pending implementation was referred to the reconstituted Committee for consideration. A Joint Sub-Committee of the Basic Principles Committee and the Advisory Committee on Citizenship and Fundamental Rights was constituted on 4 January 1954, to re-examine the stipulations of the Agreement, before it was implemented. The Joint Sub-Committee presented its report to a joint session of the Basic Principles Committee and the Advisory Committee on Citizenship and Fundamental Rights on 22 January 1954. On 3 February 1954, Syed Mir Quasim

presented the report of the Basic Principles Committee and the Advisory Committee on Fundamental Rights and Citizenship to the Constituent Assembly.

The report of the Basic Principles Committee stipulated that the constitution of the State would envisage a parliamentary form of government, in which the Council of Ministers would be responsible to the State Legislature. The State Legislature would be elected on the basis of universal adult franchise. The Basic Principles Committee recommended further, that the people of the State would have the right to develop, their language, culture and script, and the official languages of the State would be Urdu and English.[26]

The Advisory Committee on citizenship and Fundamental Rights recommended the extension of the provisions of the Constitution of India in rehard to citizenship, Fundamental Rights and the jurisdiction of the Supreme Court, to the State, in accordance with the terms of the Delhi Agreement. Abdul Gani Goni, one of the members of the Basic Principles Committee and the Advisory Committee on Fundamental Rights, presented a dissenting note to the Constituent Assembly.[27] In his note of dissent, Goni proposed:

(i) Jammu and Kashmir should be reserved the right to secede from the Indian Union;
(ii) the jurisdiction of the Supreme Court of India should not be extended to Jammu and Kashmir;
(iii) the people in Jammu and Kashmir should be vested with the right to recall their representatives from the State Legislature.

The reports of the Basic Principles Committee and the Advisory Committee were approved by the Constituent Assembly on 6 February 1954. Abdul Gani Goni walked out of the Assembly in protest.

The recommendations of the Constituent Assembly were

communicated to the President of India. On 14 May 1954, the President of India issued a proclamation, which incorporated the recommendations of the Constituent Assembly.[28] Accordingly, the provisions of the Constitution of India in regard to citizenship, Fundamental Rights and the related legal guarantees, jurisdiction of the Supreme Court, the provisions pertaining to the Government of India were extended to Jammu and Kashmir with exceptions and reservations, which vested the State Legislature with arbitrary powers, to circumvent the right to equality and the right to protection against discrimination. The most significant part of the President's proclamation was the reorganisation of the federal division of powers between the State and the Union. The Union Parliament was empowered to legislate on the subjects in the Union List of the Seventh Schedule, except the subjects, which, included the Central Bureau of Investigation, Preventive Detention, elections to the Parliament, Census, and Audit and Accounts. Provision of the Constitution of India in regard to the powers of the President to impose a state of emergency in the State arising out of war and external aggression, were also extended to the State.

The President's Proclamation was a half-way measure, which envisaged only partial application of the Constitution of India to the State. Powers were reserved for the State Government, which circumscribed the Fundamental Rights and legal guarantees, embodied by the Constitution of India, reducing them to a nullity. The President's proclamation fell far short of the expectations of the Hindus and the other minorities. The unrestricted authority exercised by the first Interim Government had ravaged them, virtually reducing them to a state of servitude. The Muslimisation of the State had excluded them from the decision making processes of the government of the State, isolated them economically and exposed them to severe religious persecution which was aimed to efface their religious identity, destroy their culture and dispossess them of their religious endowments.

The aim was to disrupt the religious tradition of the Hindus and the other minorities by weakening the institutional boundaries of their religious organisation in the name of secularism. After that was accomplished, they would evidently be left with only two options: (a) fade away and migrate from Kashmir, and (b) accept Muslim theology as a variant of their belief-systems, and finally sink into the mainstream of the Islamic movement.

The Hindus in Kashmir opted to leave their land quitely. During the rule of the Interim Government, which lasted over a decade, almost half the population of the Hindus in Kashmir, silently migrated to the other parts of the country.

The Proclamation of the President did not alter the political instruments which the first Interim Government had devised, and which incorporated a system apart from the political process envisaged by the Constitution of India. The Constituent Assembly of India did not accept the precedence of the Hindu majority as a basis of the constitutional organisation of India. In fact, it envisaged the right to equality and secular integration of the Indian people, as fundamental to the organisation of the Indian State and the Indian society. The Constituent Assembly of the State upheld the Muslim precedence as a basis of the Government and society in the State and right of primacy to the Muslims to propogate Islam. The resolution of the Constituent Assembly envisaged, reservations and exceptions, vesting arbitrary powers with the State Government on the basis of religion, to ensure the Muslim majority privileges, which were denied to the Hindus and the other minorities.

After the President Proclamation of 1954, several other provisions of the Constitution of India were extended to the State.[29] In 1956, the provisions of the Constitution of India in respect of the financial relations between the Union and the States, were extended to the State. In 1957, the provisions of the Constitution of India with regard to the removal of the

High Court Judges, and the restrictions placed on High Court Judges to plead before any Court or tribunal except the Supreme Court were extended to the State. The provisions of the Constitution of India in regard to services were also extended to the State the same year.

In 1958, provisions of the Constitution of India in respect of Audits and Accounts were extended to the State. In 1959, the provisions of the Constitution of India in regard to the Election Commission of India, were extended to the State.

## REFERENCES


1. Interim Report of the Basic Principles Committee.
2. M.K. Teng, *Article 370*, p. 101.
3. *The Hindu*, April, 2, 1952.
4. Constituent Assembly of Jammu and Kashmir, Debates, III Session, 1952.
5. *Ibid.*, 12 June 1952.
6. *Ibid.*
7. Nehru, Council of States, 5 August 1952.
8. Syed Mir Qasim, *Savan-Hayat*, (vern).
9. Statement of Sheikh Mohammad Abdullah to the Constituent Assembly, IV Session, 1952.
10. M.K. Teng, *Article 370*, p. 115.
11. Report of the Drafting Committee; Constituent Assembly, Debates, iv Session 20, August 1952.
12. Sardar Budh Singh, Interview.
13. Praja Parishad Records.
14. Jammu and Kashmir Constitution Amendment Act, Section, 4.
15. Syed Mir Qasim, *Savani-Hayat*, (vern.)
16. *Ibid.*
17. Syed Mir Qasim, *Savani-Hayat*, (vern.).
18. *Ibid.*
19. Kashmir Conspiracy Case; Legal Defence Committee, Reports, 1-8, 1960.
20. Report of the Sir Owen Dixon to the United Nations.
21. Sheikh Mohammad Abdullah to Maulana Azad.
22. *Ibid.*
23. *Ibid.*

24. Press Statement, Maulana Sayeed Masoodi, 6 August, 1953.
25. H.L. Atal, *Nehru's Emissary*, p. 158.
26. Report of the Basic Principles Committee of the Constituent Assembly, 3 Feb. 1954.
27. Report of the Advisory Committee of the Constituent Assembly of Jammu and Kashmir on citizenship and Fundamental Rights; 3 Feb. 1954.
28. Constitution (Application of Jammu and Kashmir) order 1954; Co. 48, 14 May 1954.
29. Constitution (Application of Jammu and Kashmir) order, C.O. 51, 1956, and C.O. 55, 1958; C.O. 56, 1958; C.O. 57, 1959; C.O. 60, 1960; C.O. 61, 1961; C.O. 62, 1961; C.O. 66, 1963; C.O. 69, 1964; C.O. 71, 1964; C.O. 72, 1965; C.O. 75, 1966; C.O. 76, 1977; C.O. 83, 1968.

# CHAPTER - 5

# *Greater Autonomy*

The Second Interim Government also supported the separate political identity of Jammu and Kashmir, Bakhshi Gulam Mohammad did not support the secular integration of the State with the rest of the country. He was pledged to Muslim precedence as much as his predecessor was. Indeed, he enforced Muslim precedence in the State more vigorously than the first Interim Government had done.

Bakshi Gulam Mohammad put himself at the head of the Muslim endowment, the Awkaf Islamia, which was headed by Sheikh Mohammad Abdullah for more than a decade, and which had grown after 1947, with a vast sprawling empire of assets and estates. Bakhshi believed that he could win over the Muslims at least the Kashmiri-speaking Muslims, by recanalising the State patronage to bring affluence to them, which he actually did at the cost of the Hindus and the other minorities. An affluent Kashmiri-Muslim society, he professed could easily be persuaded to accept a position in India with a separate political identity which was more Muslim than Pakistan.

In his efforts, however, Bakhshi met the fate, the Congress leadership had met in India during the British rule. Muslim communalism was essentially separatist in character, and he drove himself straight to his nemesis by promoting Muslim communalism. After a decade, the Kashmiri-speaking Muslims, whom he had brought affluence, education and a keener commitment to Islam, hurried him into oblivion in the crisis

which followed the theft of the sacred relic from the Muslim shrine of Hazaratbal in Srinagar.

Bakhshi was never able to wash off the sin, which the Muslims alleged, he had committed by supporting India to overthrow Sheikh Mohammad Abdullah in 1953. The Indian Government played a peevish role and sought to use him as a pawn in their crude attempts to bargain with whosoever was ready to restore them the support of the Muslims in the State. Sheikh Mohammad Abdullah, the pro-Pakistan and the secessionist Muslims and Pakistan denounced Bakhshi as a traitor to the cause of the freedom of the Muslims. Nehru, sent secret emissaries to persuade Abdullah to return to the fold of the Indian secularism. Many Congress leaders joined by an assortment of political adventurists and mercenaries, fed by foreign powers, spread canards seeking a reprive for Abdullah vied with each other to blame Bakhshi and his supporters, the Hindu communalists and the power-hungry politicians, of having created a charm between the National Conference and the Government of India.

Sheikh Mohammad Abdullah rejected the overtures made to him by the Congress leaders. He insisted upon the right of the Muslims in Jammu and Kashmir to self-determination and their claim to opt out of India.

**Plebiscite Front**

In 1955, Mirza Afzal Beg, who had been interned with Sheikh Mohammad Abdullah in 1953, wrote to Bakshi Gulam Mohammad, that the first Interim Government had been dissolved as a result of a conspiracy and demanded that he should be released and allowed to join the deliberations of the Constituent Assembly, in order that he could clarify the stand his leader Sheikh Mohammad Abdullah had taken. Beg was promptly released. Inside the Constituent Assembly, he delivered a frontal attack on India as well as the Second Interim Government. Beg claimed that the accession of the State to India was not final and was subject to the approval of

the Muslim majority of the State. He said that so long the Muslims did not finally approve of the accession of the State, no changes could be brought about in the constitutional provisions envisaged by Article 370.

Shortly after the Assembly session, Beg, along with several leaders of the National Conference, who had broken away from the Conference, after the dismissal of Sheikh Mohammad Abdullah, founded the All Jammu and Kashmir Plebiscite Front. The Plebiscite Front committed itself to the struggle of Muslims for their right to self-determination. He demanded the implementation of the plebiscite to determine the final disposition of Jammu and Kashmir, in accordance with the terms, the United Nations resolutions envisaged. In a plenary session of the leaders and cadres of the Conference, who supported Beg, he accused the Government of India of seeking to grab Jammu and Kashmir by force to thwart the aspirations of the Muslims to exercise their option to secede from India and then decide their future. Beg said: "the Muslims are aware of their fate in India. They have awakened to the reality of how India has trampled their freedom. But their voice for freedom from oppression of India cannot be suppressed." He said: "Muslims in Kashmir want to opt for the secession of the State from India, and after that, join the Muslim nation of Pakistan or retain their independence; they cannot be forced to remain with India. Our struggle is for the freedom of the Indian Muslims." Beg added further, "The Indian Muslims opted for a separate nation of Pakistan because they were aware that the majority community in India would never allow them their right to choose their own political system, give them freedom, and treat them with equality. Muslims of Kashmir know how to fight tyranny and they will force the hands of the Government of India, and break off, to join the Islamic resurgence and urge for brotherhood which is the characteristic feature of the new world." Beg continued; "If India does not tolerate our separate nationhood and separate state how can it vouchsafe our freedom, which we have been

fighting for the last two decades, first again the personal rule of the Dogra Maharaja and after 1947, against the forces in India, which stand in our way to freedom."[1]

The whole organisational set up of the Front and its strategy for the struggle for self-determination was devised in concert with pro-Pakistan collaborators, who were in close touch with the Pakistan. For Pakistan, the Front symbolised the aspirations of the Muslims of Kashmir to freedom from Indian dominence and their urge for fraternal unity with the people of Pakistan. Strategically, the demand of the Front for the implementation of the plebiscite was the most effective instrument to build pressure on India to part with Kashmir and the Muslim majority districts of the Jammu province, which the National Conference leaders called the Greater Kashmir."

The Front leaders as well as Pakistan knew that once the State was disengaged from India and the Indian forces had ceased, to effectively operate on its borders, the Muslims in the State would deliver the putsch to ensure its integration into Pakistan. As a front line State in the cold war alliance structure, Pakistan, poised across the whole of the warm Himalayan hinterland, which constituted the traditional political frontiers of India, would not take long to undermine the north-Indian States. Sheikh Mohammad Abdullah, inside the prison and Beg outside, were a part of the "great game" to force a second partition on India.

The movement for plebiscite, which the Plebiscite Front led received funds and political support from Pakistan. Inside the State, the flanks of the pro-Pakistan elements and the intelligence agencies of Pakistan, operating in the State, joined the Plebiscite Front. In a short span of time, the pro-Pakistan cadres of the Front assumed control over its major decision-making clusters.[2]

Ideologically the Plebiscite Front committed itself to the

demand for self-determination of the Muslims in the State, in accordance with the United Nations resolutions. However, the operational strategies, the Front adopted, turned the movement for plebiscite into a Muslim crusade against India. The Front leaders claimed:[3]

(i) the accession of the State to India was not final and was subject to the vote of the Muslims;

(ii) India sought to grab the State by denying the Muslims of the State their right to decide the finality of the accession;

(iii) the struggle that the Front led was to liberate the Muslims from the Indian hold and ensure them their choice to opt for independence or for accession to Pakistan.

The Front cadres mounted a frontal attack on India, demanding the withdrawal of the troops from the State, and the abrogation of all constitutional agreements between India and the State, which did not confirm to the terms of the temporary and limited accession. The Front leaders, denounced India as a userper, and demanded it to "Quit Kashmir."

The Front leaders, invited the Hindus, the Sikhs and the Buddhists to join the struggle against India, assuring them protection, which Islam enjoined for minorities in a Muslim State.

Jammu and Kashmir could not have aspirations, which conflicted with the struggle for a Muslim State. They stressed that the traditional tolerance which the composite culture of Kashmir represented, was the essence of the Muslim quest for freedom in Kashmir and therefore, the Hindus formed a part of the struggle of the Muslim nation for the freedom of the State from India.

Behind the facade of freedom, which the Front leaders offered to ensure the minorities, was hidden, the rancour of

countries, which had again surfaced after the National Conference had assumed power in the State. The Hindus in the Kashmir province, the centre of the activities of the Front, were treated little less than hostages. After the Front extended its operations to the Muslim majority districts of the Jammu province, the whole region of Kashmir and the Jammu province east of the river Chenab, blew up in flames. The Hindus, who were in the forefront of the resistance to Muslim secessionism, bore the brunt of the assault the Plebiscite Front launched against India. The Front leaders, assailed the measures Indian Government adopted to extend the various provisions of the Constitution of India, to the State. They alleged that the application of the provisions of the Constitution of India to the State were aimed to userp the freedom of the Muslims of Kashmir and scuttle their right to self-determination. They denounced the decisions of the Constituent Assembly of the State, which they claimed had lost its representative character after the resolution of the first Interim Government. They rejected the recommendations of the Basic Principles Committee and the citizenship and fundamental Rights Committee which envisaged the extension of the Constitution of India to the State and condemned them as measures to undo the freedom of the Muslims of Kashmir. They also repudiated the Constitution of Jammu and Kashmir, which was brought into force in January 1957, after the Constituent Assembly was dissolved and disclaimed its provisions as repugnant to the interests of the Muslims in the State.[4]

## Indira-Abdullah Accord

The movement for plebiscite was brought to its close in 1975, when Sheikh Mohammad Abdullah entered into an accord with the Indian Prime Minister Indira Gandhi by virtue of which the Front leaders agreed to dissolve the Plebiscite Front, on condition that the power of the government was transferred to them. The negotiations for the Accord were protracted and spread over a year or more. In the early phases of the negotiations, the plebiscite leaders demanded

the revocation of the application of provisions of the Constitution of India, which had been extended to the State after the removal of the First Interim Government. The Indian Prime Minister Indira Gandhi, expressed her inability to accept any conditions. Later, Both, Beg and Sheikh Mohammad Abdullah climbed down and narrowed their demands to the revocation of the provisions of the Constitution of India, applicable to the State, in respect of Fundamental Rights and the jurisdiction of the Supreme Court. Evidently, the Front leaders sought to do away with any limitations on the powers of the Sate Government, which might interfere with the policy of the Muslimisation of the State. Indira Gandhi refused to "turn back the clock," though she offered to reconsider the provisions of the Constitution of India applicable to the Jammu and Kashmir State in respect of the application jurisdiction of the Supreme Court.

In consequence of the Accord, the Congress Government headed by Syed Mir Quasim, resigned and Sheikh Mohammad Abdullah was elected the leader of the Congress legislature Party and appointed the Chief Minister of the State. He formed a Cabinet, with Mirza Beg and several other Front leaders, in it, along with some other independents, who had little political background.[5]

After the Accord, the Plebiscite Front, now renamed the National Conference, set out to wreck the Constitution of the State from within. Once the Front Leaders were saddled into power, they launched a frontal attack on the Congress, the cadres of the National Conference who had and the Hindus supported Bakhshi Gulam Mohammad. They did not spare, even those Congress leaders who had made way for them to return to power. Sheikh Mohammad Abdullah denounced them as the "works of the gutter," who had betrayed the Muslims of the State.

Indira Gandhi and the other Congress leaders believed that they had ended the stalemate in Kashmir, by handing

over power to the Front leaders, perhaps. They also believed that Kashmir would have experienced relative peace, if the Interim Government in 1953, had not been disbanded. The left leaders, in India, who had, in 1953, accused the Interim Government of conspiracy with world imperialist powers, to carve out an independent State of Kashmir, quickly turned to wash their sins and praise the secular traditions of the movement for self-determination, the Plebiscite Front had spearheaded for two decades.

Indira Gandhi fell from power in 1977. The Front leaders increased their attack on the local Congress, which had now lost the support of the Central Government. The Central Government was constituted by the United Front, a combine of several parties in India, which were severely opposed to the Congress.

The fall of Indira Gandhi from power led to a train of significant events in Kashmir. The Congress Parliamentary Party in the State Legislature withdrew its support from the Sheikh Mohammad Abdullah Ministry, which in consequence was forced to resign. The Congress made a bid to reform its government in the State, but the State Governor, Lakshmikant Jha, who owed his prestige and position to Indira Gandhi, accepted Sheikh's advice to dissolve the Assembly. Flustered, the Congress leaders in the State jumped into the election contest, on the presumption that the hollow around the Front leaders had waned due to the Accord, which had brought them to power in 1975. They were only partly right. The Front leaders asserted that they had accepted the Accord to wreck the constitution of the State from within.

The loyalty of the Muslims to the National Conference, reviewed by the Front leaders, was far from intact, but joined by the Muslim clergy, the main flanks of the Muslim middle class, and the bureaucracy the National Conference gradually retrieved its position. In an attempt to win the favour of the Janata Party, the National Conference, offered its support to

the Janata Party in the Parliament. However, the moment the Janata Party announced its decision to contest the elections in the State, the Conference leaders mounted a scathing attack on it. Sheikh Mohammad Abdullah said "Janata Party is anti-Muslim: Jan Sangh in new garb. The hands of Jan Sangh are soiled with Muslim blood."

The Conference called upon the Muslims to destroy the last vestiges of the Congress in Kashmir and wipe out whatever influence the Janata Party had acquired in the State. The front leaders asserted that the Congress and the Janata Party aimed to dismantle the separate and independent identity of the State and bring about the enslavement of the Muslims in the State to Hindu dominance in India.

In the ensuing elections, the National Conference appealed to the Muslims in the State to return the Conference nominees to the Legislative Assembly so that the movement for the liberation of the State from the Indian dominance was carried to its culmination. The Conference cadres, who were in the forefront of the election campaign of the Conference claimed that they had accepted the Accord to get hold of the State power, and use it as an instrument in the liberation struggle against India.[8]

The cadres of the Conference, in their door to door campaign, assured the Muslims that "vote for the Conference would be vote for Pakistan."[9] The Conference campaign centred round the main contention that India had usurped the freedom of the Muslims of the State and in order to regain their lost freedom, the Muslims were needed to rededicate themselves to a new struggle, which the National Conference had promised to lead to liberate them. In their election campaign, the Conference cadres, openly accused the Indian Government of having suppressed the Muslim aspirations by the force of arms and called upon the Muslims to rise and break the "Daste-Jaffa," the "cruel hand which had enslaved the soul of Kashmir."

The Janata Party aligned itself with the most purile of the pro-Pakistan Muslim factions of the State, which joined the Janata Party to defeat the National Conference. The breakaway leaders and cadres of the Plebiscite Front, who had opposed the Indira-Abdullah Accord, which they denounced as an act of betrayel with the Muslims supported the Janata Party. A powerful section of the cadres of the erstwhile Muslim Conference, which had supported the movement for Pakistan in the State also joined the Janata Party in its contest against the National Conference. However, the Muslims, all over the State, knew that the Muslim irridentist forces, which had aligned with the Janata Party were far too weak and orthodox in their outlook to liberate the State from India. They supported the National Conference. The Plebiscite Front had spearheaded their struggle for self-determination for more than two decades.[10]

In the ensuing elections, the National Conference candidates were returned to the Assembly from all the Muslim majority constituencies of the State. The Hindu majority constituencies were divided between the Janata Party and the Congress.

After the National Conference was returned to power, it redoubled its attack on India and claimed that the Muslim nation of Kashmir had an inalienable right to live in freedom and any curtailment of its freedom would be resisted by the Conference. The Conference leaders, as well as its cadres, made pronouncements, which created a feeling that the Conference was actively engaged to ensure the exclusion of the State from the constitutional organisation of India with the ultimate objective of bringing about its disengagement from the Indian Union. The Conference leaders claimed an independent national outlook for Kashmir, which they called "Kashmiriyat" with its basis in the liberal theology of Sufi-Islam, which they asserted, represented the quientensence of the religious tolerance, Islam had brought to Kashmir. Sufi-Islam, they emphasised formed the basis upon which a pattern

of religious unity could be evolved for the Hindus and the other minorities to accommodate themselves in an independent Kashmir.

The liberal theology of Islam, 'Kashmiriyat' symbolised, aimed to achieve a subtler aim: to superimpose on the orthodox, and pluralist ideological content and intricate ritual structure of Hinduism in Kashmir, an unorthodox, non-ritualist and monolenial religious theology. Once the boundaries of Hinduism were subverted, it would not take it long to disintegrate and disappear.

The Hindus in Kashmir realised the danger and refused to accept the Islamic basis of the Kashmiri nationalism. They rejected the separate Muslim identity of Jammu and Kashmir, with its ideological ground work in the postulates of "Kashmiriyat" and precedence of the Muslim majority in its government and society. They disclaimed that the Hindus of Kashmir were in any respect separately identifiable from the people of India and refused to accept that they formed a part of the Kashmiri nation, which the Muslims claimed to constitute.

The Hindus in Jammu and Kashmir had refused to recognise Muslim claim to a separate state in India, before the British withdrawal in 1947, to a separate nation and a separate Muslim State and fought against the accession of Jammu and Kashmir to Pakistan. They beseeched the Congress leaders, to end the religious persecution, economic deprivation, social isolation and the political oppression, they were subjected to, under the cover of "Kashmiriyat." Angered by their remonstrations, which reflected the Hindu resistence to religious aggrandisment, "Kashmiriyat" camaflouged, the Conference leaders condemned them as communalists who sought to regain the lost privileges which they enjoyed during the Dogra rule and who deserved to be treated as the enemies of Islam.

"Kashmiriyat," in reality represented the Muslim resurgence in the State, which the National Conference sought to legtimise as a valid ideological instrument to separate Jammu and Kashmir from India. Soon "Kashmiriyat" came to reflect the claim of the Muslims, to a position of autonomy, more synonymous with the separate political identity, the State formed before, the broad measures of its integration into the constitutional organisation of India, were taken in 1954.

In 1982, the Conference leadership administered a shock to the Indian Government, when it proposed legislation to enable the Muslims, who had migrated from the State to Pakistan, and the occupied part of Kashmir in 1947, to return to the State for permanent settlement. The proclamation of the President of India issued in 1954, incorporated provisions for the return of the Muslims of the State, who had migrated in 1947, to Pakistan or the occupied Kashmir, in accordance with the law made by the State Legislature. A resettlement Bill was hurriedly moved into the State Assembly by the Conference leaders, ostensibly for "the return and resettlement of the Muslims, who had migrated to Pakistan and the occupied Kashmir in 1947, and to unite the Kashmiri families who had been separated from their kith and kin."[11] However, the Bill had far-reaching ramifications and actually sought:

(a) to open the borders of the State to the people, from Azad Kashmir, who claimed Kashmiri descent, into Jammu as well as Kashmir, to ensure the maximisation of the Muslim wheightage in the State;

(b) to convert the Line of Control into a porus border, which permitted people's transit from Azad Kashmir and Pakistan into Jammu and Kashmir and demolish its military significance;

(c) to instil among the Muslims in the State, a feeling of solidarity with the Muslims in Azad Kashmir and thus re-establish the identity of the Muslim

movement for the independence of the State along with the territories occupied by Pakistan.

(d) to provide Pakistan an opportunity to install a second fifth column in the State.

B.K. Nehru the State Governor, hesitated to give his assent to the Bill. The Conference leaders demanded his resignation. While the controversy over the Bill continued, Sheikh Mohammad Abdullah passed away. B.K. Nehru installed Farooq Abdullah, the eldest son of Sheikh Mohammad Abdullah, the Chief Minister of the State. Farooq followed a policy of concilliation towards the Congress, till he consolidated his power.

Meanwhile B.K. Nehru, within his powers as the Constitutional head of the State, decided to send a message to the State Legislature on the resettlement Bill. The Conference leadership passed the Bill in the legislature a second time. Nehru had no alternative except to give his ascent to the Bill. He had two more options to adopt: to resign from his office or recommend the imposition of emergency in the State, following the constitutional crisis which the resettlement Bill had forced upon him.[12]

Nehru did not resign, nor did he recommend the imposition of a state of emergency in the State. On the insistance of the Government of India, the Bill was sent to the Supreme Court for its opinion. However, the damage was done, and the Conference leaders spared no efforts to pile condemnation on India, which, they alleged had stood in the way of the reunification of the Muslims across the Line of Control.

**Militancy and Autonomy**

During the years that followed, the secessionist movements in the State gathered greater strength. A whole generation of the Muslim youth, which grew under the shadows of the Plebiscite Front, was socialised to the Muslim quest for freedom from India and the unification of the State with the Islamic

commonwealth of Pakistan. Whatever may now be said to whitewash the ravages of the movement for plebiscite, the Front led, the bitter truth is that it upheld the struggle for a Muslim State, aligned to Pakistan by the bond of religion.

In due course of time Muslim youth, committed to resistence against India, symbolised by the autonomy of the State as well as the struggle for self-determination, assumed the leadership of the Muslim separatist movements in the State.

The autonomy of the State, envisaged by 'Article 370, provided the political context, in which Muslim separatism was recognised as a legitimate expression of Muslim aspirations to freedom. The insistence of the National Conference leadership on the exclusion of the State from the Indian constitutional organisation and the claim to a separate national identity on the basis of the Muslim majority character of its population, was in no way different from the ideological content of the Muslim movement for Pakistan. The Muslims of Jammu and Kashmir were a separate nation and therefore, could not form a part of the secular polity of India, in which the State would not be committed to the precedence of Islam and the Muslim majority. of its population.[13]

The consolidation of pan-Islamic fundamentalism as the basis for a global strategy to unify the Muslims into an independent power base, with Pakistan as one of its focal centres, imparted a new direction to the Muslim resistence against India. With Pakistan backing the secessionist movements in the State, the process of their fundamentalisation was rapid. Fundamentalist commitment to the unity of the Muslims and their freedom transcended the narrowly local loyalities which the National Conference and the Plebiscite Front had espoused. The Muslim youth in the State, ideologically closer to pan-Islamic fundamentalism, quitely imbibed to the new spirit of Islamic revolution and the Muslim crusade.

The final denouncement came when Pakistan commenced the militerisation of pan-Islamic fundamentalism on the subcontinent. Pakistan's strategy to induct arms into the northern States of India was aimed to destabilise their community balances and soften the resolve of India to resist Muslim communalism in Jammu and Kashmir. While the Indian Government was struggling to overcome the conflict in the Punjab, Pakistan commenced the militerisation of the Muslim secessionist flanks in Kashmir.

The militant secessionist organisations led by the Jammu and Kashmir Liberation Front launched their operations in the State in 1989. By the end of the year militant depredations spread all over the Kashmir Valley. The militant violence exploded many myths which had formed the basis of the autonomy of the State.[14]

The Congress-National Conference coalition, government in the State, headed by Farooq Abdullah, watched the onset of the militant violence with abject indifference. The State Government and its security organisation had adequate information about the terrorist operations and there objectives. But they watched the violence spread, without taking any effective measures to contain it. "The State Government issued vague and contradictory statements, reiterating the faith of the coalition partners in secularism, Kashmir identity and Muslim precedence. In several of the statements, the coalition partners levelled charges against each other as well as against the Hindu communalists, who they alleged, were waiting to disturb the peace in the State. To conceal the truth, many of the Conference leaders traced the Muslim unrest to the dominence of the Kashmiri Pandits in the Central Government offices in the State, because of which the potential Muslim talent was frustrated with Indian secularism. The Congress leaders of the State indulged in self-condemnation and charged everybody, except the Muslims, for what had happened in the State."[15]

In January 1990, the crisis deepened in the State as the militant forces mounted a major offensive. The Government of India appointed Jagmohan the Governor of the State. The National Conference Congress coalition resigned from office in protest against the appointment of Jagmohan, who they alleged, harboured ill-will against the Muslims. The sudden rupture of the State government plunged the whole State into chaos. The National Conference cadres and leaders, accused the United Front government in Delhi, of having sent Jagmohan to Kashmir to eliminate the Muslims.

Many of the cadres and ranks of the National Conference, fraternised with the terrorists forces; many of them declared their dissociation from the Conference.

The first blow that the militants dealt, fell on the Hindus of Kashmir. A wild manhunt was unleashed against them, killing hundreds of them in cold blood. As the number of the killings increased, the Hindus began to evacuate from the Valley. Thousands of their houses were burnt down, along with their temples and religious shrines. By the onset of summer, almost the entire Hindu population evacuated from Kashmir, to Jammu and the other parts of the country.[16]

The strategies adopted by the militant groups to demolish the administrative organisation of the State and its security apparatus, achieved their aim with devastating effect. The administration, with several of the its flanks, working for the militants, crumbled rapidly. "The Muslim bureaucracy played a major role in the demolition of the power structure of the State to pave the way for the functional atrophy of the State government. Right from the time of the Interim Government, the Muslim bureaucracy had been built as a flank of the National Conference, but after the disintegration of the Conference, it had grown into a powerful instrument of Muslim separatism. It was actively assisted by the secessionist flanks in the political parties, which constituted the Government and the nexus between them completed the destruction of

whatever semblance of institutionalisation and survived the ravages of the movement for plebiscite in the State."

The militant violence had a destructive impact on the security structures of the State. "With the onset of militant violence in the State, the security structures in Kashmir, heavily infested by secessionist elements and led by personnel, deeply indoctrinated by the Muslim fundamentalism, crumbled rapidly. The flanks of Kashmir armed police, recruited mainly from among the Muslims of the border districts of both the provinces of Jammu and Kashmir, struck work and mutineed, allegedly on being treated indifferently by the Government."

While the secessionist forces consolidated their hold on Kashmir, they extended their operations to the Muslim majority districts in the Jammu province. The militant operations in the Jammu province were aimed to militerise the Muslim secessionist forces in the Muslim majority districts and drive the Hindus out from there. "If the Hindus in the Jammu Province were isolated in the two districts of Jammu and Kathua and the frings of Udhampur and Doda, lying least of the Chenab, a basis could be provided for Pakistan to accept the division of the State along Chenab."[17]

Several leaders in the Congress, which was now out of power in India, the leaders of the National Conference and some of the factional leaders in the United Front, went as far as to make wild claims that the accession of the State was conditional upon the recognition of its autonomous Muslim identity and the National Conference had supported the accession of the State of India in 1947, on the assurance of Nehru and the other Indian leaders that the Jammu and Kashmir State would not be integrated into the secular political organisation of India. Most of these leaders blamed India and Hindu communalists for having failed to recognise the right of the Muslim majority to reorganise the State on the basis of Muslim law and precept, which they claimed would reflect truely, the plurality of the Indian society.[18]

For whatever other reasons there were, and the powerful pressure the Muslim lobbies in the United Front, as well as the Congress, brought to bear on the Indian Government, Jagmohan was removed from his office in May 1990. The United Front Government broke up a few months later, paving the way for the Congress to return to power. The Congress, now in the hands of middle line leaders, who had survived on their commitment to uphold the balances .of community and caste balances, clung to its mistaken nations, that:

(a) the Muslim separatist and secessionist forces had not accepted Pakistan as a factor in their struggle against India;

(b) Pakistan had, with its ulterior motives of annexing Jammu and Kashmir, used the Muslims of Kashmir against India;

(c) the Muslim secessionist movements in Kashmir, including the armed militancy, were not communal in content and reflected the urge of the Muslims for a national identity;

(d) the recognition of the national identity of the Muslims by readjustment in power equations within the framework of the Constitution of India, would end the Muslim distrust in Kashmir.

The Congress leaders, had followed the same policies in 1946, when they had, under the persuasion of the then Congress President, accepted the Cabinet Mission Plan, an a basis for Indian unity. The Cabinet Mission Plan and envisaged a readjustment of power-equations, providing the Indian Muslims, a separate and autonomous sphere of national power, extending over almost the entire north and east of India. The acceptance of the Cabinet Mission Plan by the Congress, had led straight to the partition of India and cut away a large part of Assam and the Bari Doab in the Punjab, which had been rapidly colonised by the masses of Muslim migrants from East Bengal and the West Punjab.[19] The separate political

identity of the Jammu and Kashmir State, envisaged by Article 370, was in several aspects similar to the grouping of Muslim majority provinces into a separate constitutional identity, which the Cabinet Mission Plan underlined. Both the Cabinet Mission Plan and Article 370, led to the same consequences: the consolidation of Muslim separation.

The militant violence spread wider and deeper in the State, inspite of the endeavours of the Congress government to bring back the "misguided Muslim youths" who had been enticed away by Pakistan. The National Conference withered away and its organisational units blew up under the impact of the militant violence. A section of the its leadership withdrew from Kashmir; a section of its cadres and leaders vanished into oblivion. A large section of its leaders and cadres surrenderd to the millitant regimes. Many of cadres and ranks fraternised with the secessionist forces. On February 2, 1990 the Conference legislators issued a statement in which they said, `We demand the withdrawal of paramilitary forces from Kashmir, as they have let loose a reign of terror which is unheard of even in South Africa.' One of them, Abdul Rashid Dar, supplemented the statement by calling upon his party, the National Conference, to join the freedom struggle. He declared that he was placing his services at the disposal of the Jammu and Kashmir Liberation Front.

The Conference leaders did not harbour any illusion about the content and the character of the militant violence, raging in the State. Many among them realised the international implications of the Muslim struggle in Kashmir. Some of them saw the weakening of the Soviet Regime as a signal, for new international balances of power, which would be advantageous to Pakistan. Many of them however, waited for an opportunity, should that come their way, to bargain with India, using the Muslim crusade as a lever to secure the State, independence, with Indian guarantees against outside interference.

The militant violence in Kashmir brought to surface the facts that the autonomy of the State was always used as a cover for Muslim communalism and had been effectively used to consolidate the separatist forces in the State. The National Conference had used adoritly, the Indian commitment to secularism, to defened the State from Pakistan. Sheikh Mohammad Abdullah insulated the State from the National mainstream and forged it into a separate political identity till the United Nations intervention foisted proposals for a plebiscite on India. He lost no time to use the United Nations intervention to ensure independence for the Muslim nation of Kashmir. The autonomy of the State was not committed to the secular political organisation of India or the Indian unity, which it professedly supported.

A persistent disinformation campaign aimed to conceal the communal and secessionist character of the terrorist operations in the State, was carried on by the abettors of terrorism, who were joined by the Human Rights activists in India, and several leaders and activists of the National Conference. "Deliberate attempts were always made to provide cover to the evolution of fundamentalism and secessionist movement in the State, right from the time of its accession to India. The various forms of Muslim communalism and separatism which rampaged the life in the State during the last four decades and which imparted to the secessionist movements in the State, their ideological content and tactical direction, were camaflouged under the banners of sub-national autonomy, regional identity and secularism. Largely perceptional aberrations, misplaced notions and subterfuge characterised the official as well as non-official responses to the upheavals which rocked the State from time to time. More often, the real issues confronting the State, were overlooked by deliberate design and for political interests: a policy which in the long run operated to help the secessionist forces to consolidate their ranks."[20]

With the disintegration of the United Front and the

restoration of the Congress to power in India in the disinformation campaign, assumed a new direction. The Congress government blamed the Janata Dal and the other constituents of the United Front for the crisis in Kashmir, where the Congress leaders alleged, a section of the misguided Muslim youth had been recruited by Pakistan to carry on subversive activities in the State. Some of the Congress leaders attempted to open negotiations with several militant factional leaders. Some of them made a bee-lime for the summer capital of the State, Srinagar, and the district headquarters of the Muslim majority regions in Jammu, ostensibly to carry on a dialogue with the militant flanks.

The Congress leaders had always believed that improvised power equations, redistribution of political patronage and wider financial inputs into Muslim communalism would end the "Muslim alienation" in Kashmir and provide the basis for a settlement of peace. In sheer self-conceit, they clung, tenaciously to their belief that the Muslimisation of the State did not conflict with Indian secularism, and they could strike a bargain with the militant regimes, even if it was at the cost of the Hindus and the other minorities. The Congress leaders repeated their resolve to initiate a political process" in the State, which they vehemently stressed would lead to peace. The Government of India did not specify the changes in the political organisation of the State, the initiation of the political process would involve, except that it would begin with the restoration of the parliamentary regime in the State, which the Constitution of Jammu and Kashmir envisaged. The State Governors balanced themselves between their mentors in Delhi and the terrorist regimes, which weilded real power in the State. They reiterated their resolve, more too often, to suppress terrorism in the State but repeatedly assured the militant regimes of their readiness to open negotiations with them.

In 1995, the National Conference proposed the restoration of the autonomy, the State enjoyed in 1953, as a basis for a

peace-settlement in Kashmir. Evidently, the National Conference leaders sought to use the militancy as a lever to disengage the Jammu and Kashmir from the Indian constitutional organisation, in which it was partially included by the President's Order of 1954.

The Conference leaders demanded that the Government of India announce a political package which recognised the separate political identity of the State based upon the Muslim majority character of its population. The Conference claimed that a settlement could be reached with the militant regimes on the condition that the State would be excluded from the secular constitutional organisation of India, and the Muslim majority would be ensured the right to adopt a constitution for the State which embodied its aspirations. He proposed that after the autonomy of the State was secured, National Conference would, introduce autonomy for the various regions inside the State, to "heal the hurt psyche" of the people of the State and also put to an end to the feelings of regional discrimination among them.

The Indian Government once again resorted to subterfuge, and indulged in vague assertions of its commitment to the autonomy of the State, which at one time, the Indian Prime Minister P.V. Narsimha Rao, termed as "Azadi-short of independence." The Government of India, claimed, that the constitutional framework of India was flexible enough to allow the separation of the Jammu and Kashmir State from the constitutional organisation of India and its reconstitution into a political identity which did not accept secularism and freedom of faith, as its basic ingredients.

The Hindus and the Buddhists expressed sharp disapproval of any compromise with the National Conference on the issue of autonomy. The Hindus of Kashmir, smouldering in exile,denounced the Conference demand for the restoration of 1953 status, as a tactical manoeuvre to prepare the ground for the separation of the Kashmir Valley and Muslim majority

regions of the Jammu province from India, for which the inspiration came from several western powers. The exclusion of the State from the constitutional organisation in the prevailing anarchy, they emphasised, would lead to the consolidation of the secessionist forces in the State. The enthusiasm for "Azadi-short of independence" did not last long. Several Conference leaders made conflicting statements demanding the restoration of pre-1950 position, of the State thereby seeking the exclusion of the State from the territories of the Union as well. The Congress leaders indulged in vague diatribe, perhaps, unaware of what they sought to achieve by according" Azadi-short of independence," to Jammu and Kashmir.[21]

The offer of the Indian Government to consider the demand for the autonomy of the State, as a basis of the transfer of power to the Muslims in Jammu and Kashmir which the "political process" in reality underlined, was a misconceived move. Perhaps, the Congress attempted to strike another deal similar to the one Indira Gandhi had struck with Sheikh Mohammad Abdullah in 1975, to shift the responsibility of facing the militants, over to the National Conference. The time had changed and Narsimha Rao, the Indian Prime Minister, perhaps, failed to realise the enormity of the price the Conference leaders demanded, what would be the guarantee that the National Conference would be able to carry the Muslims with it to counteract the militant violence and bring about normalcy in the State? Nor could it be presumed with any certainty, that the State Government, committed to the precedence of the Muslim majority, would be able to effectively contain Muslim separatism the main motivating force behind the secessionist movements in the State. With the federal instrumentalities, having been dissolved in consequence of the abrogation of the provisions of the Indian Constitution applicable to the State, the Indian Government would be unable to act in case the situation proved difficult for the National Conference to handle.

The elections to the House of the People of the Indian

Parliament were announced in March 1996. The National Conference decided not to participate in the elections in view of the "ground realities" in the State, which, the Conference leaders claimed, were not conducive for the elections. The President of National Conference, Farooq Abdullah, stated in a press communique, that the demand for autonomy was the "basic political issue" with the people of the State. He stressed that the elections would assume meaning only after the demand for autonomy had been considered.

In the parliamentary elections, the Congress was defeated out of power. A coalition of thirteen parties, including the Janta Dal and its tributary factions, the communist parties, and the regional parties formed a United Front Government.

The United Front government, decided to hold elections in the State in 1996. Special procedure of voting was devised for the lakhs of refugees to vote at the places, where they lived in exile. In the province of Jammu and the division of Ladakh, the turnover of the voters was fairly high. In the province of Kashmir, conflicting reports which could not be verified, were received from the province of Kashmir, about the use of force and intimidation and even unfair means, in the elections held there.

The National Conference promised the Muslims to carry them half-way to freedom by restoring the State to its 1953 position, exclude it from the constitutional organisation of India, ensure the Muslims the right to reconstitute the government of the State independent of the imperatives of secularism and the right to equality, the Constitution of India envisaged. The Conference leaders promised regional autonomy for the Jammu Province and the district of Ladakh. The whole strategy was aimed to divide the Jammu province and separate the Muslim majority districts of the province almost on the same pattern on which the Ladakh Division had been divided to separate majority district of Kargil, when the issue of forming a Hill Council had come up for decision.

The National Conference had always taken the position that the Hindu minorities in Jammu and Kashmir would be safe and secure in an autonomous Muslims State of Jammu and Kashmir, but the Muslim of the State would neither be safe nor secure in a secular India nor would the Muslims be safe in the Hindu majority autonomous region of Jammu or the Buddhist majority autonomous region of Ladakh.

The National Conference was returned to the Assembly with a majority. The will of the United Front to transfer power to the Muslims in the State was fulfilled. The Conference, constituted its government in 1996, bringing the Governor's rule, which had been imposed over the State in January 1990 to its end.

The United Front government gloated over its achievement of having succeeded in holding elections in the State, which they stressed was a prelude to the end of the war of attrition in the State. However, Pakistan, as well as the terrorist flanks charged India of having installed a puppet regime to suppress the Muslim struggle in the State. The countries of the Islamic Organisation also denounced the elections.

The Congress and the United Front leaders gave little consideration to the implications of the exclusion of the State from the political organisation of India, at a time when the terrorist violence was raging in the State. Evidently, the militant flanks, operating in the State, would not accept a settlement, which was not acceptable to Pakistan. Even after the United Front Government agreed to delink the State from the Indian constitutional organisation and reorganise it into a separate semi-independent State, essentially Muslim in composition and outlook, the military operations of the militant organisations would not come to an end.

Farooq Abdullah, securely saddled in power announced the appointment of two high-power committees to inquire into the twin issue of (a) the autonomy of the State in its

relations with the Union of India; and (b) autonomy of the sub-regional identities of Jammu and Ladakh. The Conference leadership aimed to create an impression that not the elections, but autonomy factoral to a settlement on Kashmir, a signal, significant enough to attract international attention. Autonomy, the Conference leaders knew, would not be acceptable to the militants and Pakistan, as a basis for a settlement on Kashmir. They, however, visualised that the continued militant violence in Kashmir would eventually involved third power intervention.

The Committee appointed to examine the autonomy of the State was constituted of a number of Cabinet Ministers in the State Government and was headed by Dr. Karan Singh, former Sadar-i-Riyasat of the State, who had played a memorable role during the fateful days, when the Interim Government headed by Sheikh Mohammad Abdullah, was dismissed in 1953. Karan Singh, who had succeeded his father as Maharaja of Kashmir, had been flung into the background, after the Congress leadership in India, had reopened negotiations with Sheikh Mohammad Abdullah, to seek a settlement with him. The Committee for regional autonomy was headed by Balraj Puri, a political activist and a writer of considerable experience.

The Karan Singh Committee was instructed to recommend measure to (a) exclude the State from the constitutional organisation of India and (b) suggest ways and means to render the autonomous status of the State permanent and inviolable. The Committee was asked to make recommendations, which would virtually substitute the transitional and temporary provisions of Article 370, by provisions which were inviolable," impliedly, not subject to change by any constitution amendment undertaken by the Parliament of india.[22]

The Conference leaders, sought guarantees, to render the exclusion of the State from the constitutional organisation of

India, made irreversible by an agreement between the State of India and Jammu and Kashmir, which superseded the Article 370. Such an extra-constitutional guarantee, would not be subject to the powers of the Parliament of India to amend the provisions of the Constitution of India, and would thus limit the precept and principle, governing the amendment of the Constitution of India.

Interestingly, the debate was absent among the Muslims, on the issue of autonomy. The Muslims secessionist forces and militant organisations expressed subdued disapproval of the demand for autonomy, reiterating their claim to self-determination. No one, however, not even the extremists flanks, among the Muslim secessionist forces, harboured any doubt about the ultimate advantage, the autonomy of the State, would provide to them.

The Hindus, all over State were, however, alarmed. They denouncd the exclusion of the State from the constitutional organisation of India. In an open letter to Dr. Karan Singh, leading and influential Hindus, of Jammu wrote :" We are certain about Dr. Farooq Abdullah's motivation in demanding a semi-independent State of Jammu and Kashmir. And we can state, without fear and contradiction, the APHC and the other contradiction pro-Pakistan and Azadi brand outfits consider this as the first step towards the realisation of the goal. What they have failed to achieve through terrorism, they now hope to gain atleast in stages through the medium of Greater Autonomy. It needs to be pointed out that the Committee you are presiding over is dealing with Centre-State relations as also with constitutional changes. Any recommendations in accordance with the "Terms of Reference" will not only adversely effect National unity and integrity, but also geoparadise the future of generations to come as these are sought to be made "inviolable" as per the terms of reference of the Committee."[23]

In its representation submitted to Dr. Karan Singh

Committee, the Committee to Build Response on Autonomy, constituted by the Kashmiri Pandit Global Summit in 1997, stated: "The autonomy of the state, that it has enjoyed so far, is an anti-thesis of the Indian unity. It was a mechanism devised by the National Conference leadership in 1949, to secure a veto on the Instrument of Accession and exclude the State from the territories of India, and finally break it off from the Indian State. The claim to the restoration of 1952, position underlines:

(i) the revocation of the provisions of the Constitution of India extended to the State after 1954, to secure its re-exclusion from the Constitutional Organisation of India:

(ii) after the State is excluded from the constitutional organisation of India, use the militant violence to force a settlement on India, in which the Kashmir province, the cautiguous Muslim majority regions of the Jammu province and the frontier of Ladakh are delinked from India."[24]

The Joint Human Right Committee submitted a memorandum to the Karan Singh Committee strongly disapproved of the separation of the State from the secular political organisation of India. "The exclusion of State," the Committee emphasised "from the Indian constitutional organisation, of India on the basis of the Muslim majority character of its population, implies that a Muslim majority State cannot form the part of the secular constitutional organisation of India. The demand for the exclusion of the State from the constitutional organisation of India, on the basis of the Muslim majority of its population, resembles closely the Muslim League demand for Pakistan. The insistence of the Indian Muslims on the partition of India to ensure them the right to reconstitute the Muslim majority provinces in India into a Muslim State. The creation of a separate and autonomous Muslim State of Jammu and Kashmir on the

territories of India, outside its political organisation will straightway lead to the second partition of India."[25]

Dr. Karan Singh resigned from the Committee in summer 1997.

## REFERENCES


1. Mohiudin Shawl; *Kashmir Conspiracy Case,* p. 50. Records of the Plebiscite Front.
2. B.N. Mullick; *My Years with Nehru;* p. 64-67.
3. Jammu and Kashmir Plebiscite Front, *Political Resolution, 1955; Political Resolution 1956.*
4. Mohiudin Shawl, *Kashmir Conspiracy Case;* All Jammu and Kashmir Legal Defence Committee, pp. 50-53.
5. Syed Mir Qasim, *Savani-Hayat.* (vern.)
6. P.N. Bazaz, *Democracy through Intimidation and Terror,* p. 30.
7. *Ibid.*, p. 38, Interview: Maulana Syed Masoodi.
8. *Ibid.*, pp. 68-71.
9. *Ibid.*, p. 70.
10. *Ibid.*, pp. 50-56.
11. *A Solemn Pledge Redeemed:* Pamphlet issued by M.K. Tickoo, Minister for Law and Industries, May 18, 1982.
12. *Ibid.* p. 6.
13. M.K. Teng, *Article 370,* p. 94.
14. Jagmohan, *My Frozen Turbulence.*
15. Joint Human Right Committee, *White Paper,* pp. 46-49.
16. *Ibid.* pp. 37-38.
17. *Ibid.* pp. 36-37.
18. *Ibid.* pp. 46-50.
19. Statement containing the final decision of His Majesty's Government regarding the method of transfer of power, 3 June 1947; Maurice Guyer and A. Appodrai: *Speeches and Documents on Constitution of India;* P. 670; Cabinet Memorandum to the Chamber of Princes.
20. Joint Human Rights Committee; *White Paper,* p. 29-30.
21. Terms of Reference of the Committee.
22. The letter was signed by Seventy-seven prominent citizen's of Jammu.
23. Terms of Reference.
24. Kashmiri Pandit Global Summit Report of the Committee to build responses on Autonomy, 1996.
25. *Ibid.*

# *Appendices*

## APPENDIX I

## STATEMENTS OF SHEIKH MOHAMMED ABDULLAH 1958 AND 1962

### 9.1. Statement of Sheikh Mohammed Abdullah after His Release, Issued from New Delhi, February 17, 1958

Since my release after 4-1/2 years' detention, I have tried to explain my viewpoint and possible solution in regard to various problems facing the political future of the State. With sufficient clarity, I hope, I have succeeded in elucidating the following points:-

(a) So long as final decision about the future disposition of Jammu and Kashmir State is not arrived at, the political uncertainty, economic distress and other mental strain and miseries which the people of the State are facing at present, cannot terminate.

(b) The existing strained relations between India and Pakistan are not only a source of great danger to the solidarity of Asia, but also contribute to the ruin of the people of the State. The dispute over Kashmir is one of the main contributing factors to these strained relations.

(c) The ultimate decision with regard to the future affiliation of the State vests with the people and can only be achieved by allowing them to exercise their right of self-determination under impartial international supervision, in accordance with the

universally recognized methods as has been already agreed to by the parties concerned or is otherwise acceptable to all.

I am deeply sorry that in order to befog my views from the public, interested people have resorted, right from 1953, to a campaign of falsehood and every attempt is being made at misrepresentation and distortion. These people wish to keep the Kashmir issue hanging in order to exploit it to serve their own ends in spite of the fact that the progress of their Motherland and international peace and amity insistently demand its immediate solution.

Those who are opposed to a satisfactory final settlement of this problem falsely charged me, five years ago, as having conspired with a foreign power. Now since my release a campaign has been started by these very people to depict me as a communalist for obvious reasons. As the charge of foreign conspiracy could not be substantiated, despite expiry of five years, an attempt is now being made to fabricate the charge of communalism against me so that public opinion in India and elsewhere may be deceived afresh, and the people's feeling and sympathy for me as a victim of persecution may be affected.

Another object seems a futile attempt on the part of these people to intimidate and coerce me into silence. I am conscious of the fact that these people have at their command services of the press, power, money and other resources with the help of which they are able to present falsehood as truth. On the other hand such facilities are denied to me. Even so I have no doubt in any mind that my effort to end this long-standing dispute about Kashmir can have no relation to communalism. This effort, in fact, is a great service to all those who have been facing untold miseries during the last ten years because of this dispute having remained unsolved. Who can deny the reality that failure to end this dispute is not only a source of distress and misery to the Muslims of Jammu and Kashmir

but is a cause of anxiety and uncertainty to the entire population of the State? A solution of this dispute will not only contribute to the Strengthening of peace and security throughout Asia but will heal up a festering sore which has been seeping into the very vitals of India and Pakistan. It is, therefore, for any intelligent man to judge whether it is fair to equate with communalism any endeavour to help solve this dispute. I firmly believe that real secularism is the soul of democracy but I am unable to understand how the demand for the final settlement of the dispute in regard to the accession of the Jammu and Kashmir State in accordance with the wishes of the people does in any way infringe any principle of secularism.

It is not the first time that I am charged with communalism. During the last 27 years a large section of the press in North India often brought such charges against me and every time facts and events proved them false. Many incidents in the Freedom Movement of our State bear witness to the fact that in 1931 this section of the press went so far as to allege that I aspired to be the Sultan of Kashmir and that a crown was ready in the Jamia Masjid, Srinagar, to be placed on any head at the opportune moment. Ultimately however, truth triumphed and the National Movement spread throughout the State. Later, these charges were repeated during the "quit Kashmir Movement". But when the practical test came in 1947, these were proved not only false and malicious but the world also came to appreciate that the attitude taken up by the Muslims of Kashmir in safeguarding life, honour and property of their non-Muslim brethren was unparalleled throughout the sub-continent. Today in 1958, the same disruptive elements are again at their old game, and surprisingly, they include even those whose hands were besmeared, in 1947, with the innocent blood of their neighbours and who celebrated with great joy and distribution of sweets the brutal assassination of Mahatma Gandhi. Nevertheless, I feel sure that even this fresh attempt to malign me will also end in failure and fellow country-men belonging to the minorities will find me, as ever, their best

friend, well-wisher and protector of their legitimate rights. My past record should be a sufficient guarantee for any one to judge my future behaviour. I do not, therefore, wish to waste my time and that of my country men in putting up a defence against these slanderous accusations. When the dust raised by the propaganda of the interested people settles down, my fellow country-men will view me in the light of their past experience of me and events which have now become part of history, and will refuse to fall a prey to such a nefarions propaganda. The real secularism consists in safeguarding the legitimate rights of both the majority communities. Happily the majority community in the State never considered the protection of the minorities as communalism and I hope and trust that the minority communities of this State will similarly not view the protection of the legitimate rights of the majority community as communalism.

I am being accused of break of pledge in support of the accession of the State to India. With all the force at my command, I repudiate this allegation and submit that the responsibility for the breach of the pledges rests elsewhere. A pledge is not a one-sided process; in regard to the accession of Kashmir the Governments of India and Kashmir accepted certain responsibilities and obligations but, unfortunately, the former did not fulfil their share in spite of the best endeavours of the Kashmir Government to persuade them to do so. When the charge of the breach of faith is, therefore, levelled against me, I have a right to pose the question as to where lies the responsibility for not implementing the promises and assurances given by the Government of India to the State of Jammu and Kashmir from the date of tribal raid till my arrest in 1953.

Much propaganda is being made out of the fact that in November 1947, I pledged my support to Pandit Nehru in a mass meeting held at Lal Chowk in Srinagar. But with this, one should not forget what Panditji said a few minutes earlier. Explaining the Government of India policy, he stated that: "It

must be remembered that the struggle in Kashmir is a struggle of the people of Kashmir under popular leadership against the invader. We have come to your help at this critical hour. Our forces are here simply to defend your country against the raiders and as soon as Kashmir is free from the invader, our troops will have no further necessity to remain here and you will be free to determine your future in accordance with your wishes..."

A few days before the Lal Chowk meeting, announcing the Government of India policy, Prime Minister Pandit Jawaharlal Nehru, in his broadcast from New Delhi on the 2nd November, 1947, said: "We are anxious not to finalize anything in a moment of crisis and without the fullest opportunity to be given to the people of Kashmir to have their say. It was for them ultimately to decide: And let me make it clear that it has been our policy all along that where there is a dispute about accession of a State to either Dominion, the accession must be made by the people of that State. It was in accordance with this policy that we have added a proviso to the Instrument of Accession of Kashmir."

When the Constitution of India was finalized, the State of Jammu and Kashmir was given the status of an autonomous State in all matters except (a) Defence, (b) Foreign Affairs and (c) Communications (Section 370 of the Indian Constitution). This was an inviolable pledge.

May I ask, as to where all these promises and assurances stand today and who is responsible for breaking them? My illegal and unconstitutional dismissal from Premiership and my long detention without trial are in themselves the most glaring examples of the value attached to pledges and solemn assurances.

I am also blamed by my detractors as to why I do not consider the decision taken by the Kashmir Consembly regarding the accession as final. In this connection, the reality

should not be lost sight of that the Government of India themselves have not accepted the decision of the Consembly regarding accession as final. The late Sir B.N. Rao in the capacity of the leader of the Indian Delegation before the Security Council declared on March 12th, 1951: "My Government's view is that while the Consembly may, if it desires, express an opinion on this question, it can make no decision on it." And again on 29th March, 1951 he declared that "the Consembly cannot physically be prevented from expressing its opinion on this question if it so chooses, but this opinion will not bind my Government nor prejudice the position of this Council." Consequently the Security Council passed the following resolution on 30th March, 1951:

> "Observing that the Governments of India and Pakistan have accepted the provisions of United Nations Commission for India and pakistan (UNCIP) resolutions of 13th August, 1948, and 5th January, 1949, and have reaffirmed their desire that the future of the State of Jammu and Kashmir shall be decide through the democratic method of a free and impartial plebiscite conducted under the auspices of United Nations; "Observing that on 27th October, 1950, the General Council of the All Jammu and Kashmir National Conference adopted a resolution recommending the convening of a Constituent Assembly for the purpose of determining the future shape and affiliations of the State of Jammu and Kashmir; observing further from statements of responsible authorities that action is proposed to convene such a Constituent Assembly and that the area from which such a Constituent Assembly would be elected is only a part of the whole territory of Jammu and Kashmir; Reminding the Governments and Authorities concerned of the principle in the Security Council resolutions of 21 April 1948, June 1948 and 14 March 1950 and the United Nations

> Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949, that the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations;
>
> "Affirming that the convening of a Constituent Assembly as recommended by the General Council of the All Jammu and Kashmir National Conference, and any action that Assembly might attempt to take to determine thc future shape and affiliation of the entire State or any part thereof, would not constitute a disposition of the State in accordance with the above principle."

Pandit Jawaharlal Nehru, while answering a question on the subject in the Indian parliament in 1955, declared the decision of the Constituent Assembly regarding the accession as unilateral and, therefore, of no consequence to resolve this international dispute on Kashmir. The decision of this Assembly cannot, moreover, be viewed in isolation and out of context of historical events that followed. The question is not about the decision but as to what were the means by which it was secured. A period of five years elapsed between the date of convening of the Consembly and taking a final decision on the accession issue. The Consembly which enjoyed popular support in 1951 on this side of the "Cease-fire Line" forfeited the confidence due to the events that took place on 9th August, 1953, and thereafter. The front rank members of the body were put in prison and debarred from participating in the proceedings of the House. Those who were not in prison were forced into submission by threats of persecution and imprisonment and irresistible temptations were thrown in their way. Consequently, the masses lost faith in them as there was no contact between those members and their constituents. The fact cannot be ignored that before the

Constitution was finalised, the Leader of the House was arrested under a deeply-laid conspiracy and when the masses protested against this illegal and unconstitutional act, a reign of terror was let loose and hundreds of men, women and children were shot down in cold blood and this continued for months together. A period of four years was spent in making the members of the Assembly to toe the line of the *coup* stagers. Such of the members as did not submit were kept in jail and the Constitution declared passed.

Even though in detention, yet led by national interests, from time to time I tried to warn all concerned against the dangerous consequences of allowing the Constituent Assembly to be used for group conflicts of the National Conference. In telegram on 30th September, 1951, I asked the President of the Constituent Assembly to allow me to be heard by the Assembly before the "vote of confidence" in *coup* stagers was considered. Then again when the Constitution was going to be finalised, on 16th August, 1956 I wrote to him saying:

"By 9th August action as well as by the long record of black deeds in and outside the House, the present Government and the Assembly have completely forefeited the confidence of the electorate and they no longer represent the political and economic aspiration of the people. It will be the height of treachery if such a body sits to frame a fundamental law for the people and their future generations. Nothing can be worse betrayal of their aspirations. I feel, therefore, duty-bound to ask you to desist from such a course of action...."

In view of these circumstances, I fail to understand why and how my refusal to accent these decisions of the Consembly could be taken as treasonable.

One of the most important objects underlying the entire political movement in the State has remained to secure the right of self-determination for the people of the State. Expression of the will of the people through a plebiscite is the one formula

which has been agreed upon by the parties concerned and in a mass of disagreements about details, this common denominator has held the field so far. The Security Council, also, has held that a plebiscite, conducted in a fair and free atmosphere under its own auspices, is a just solution of the problem consistent with the provisions of the United Nations Charter. This commitment has repeatedly been reaffirmed by the parties concerned.

The people of the State consider the formula of plebiscite as a clear interpretation of their long cherished aspirations and as a lasting solution of the complicated problem which is facing them since 1947. Their political outlook is the product of the last 27 years' struggle whose sheet-anchor has ever remained the conviction that "sovereignty vests with the people". A State which was sold away for a cash consideration and remained in slavish subjugation for a century, naturally gave this demand the foremost importance and made the right of self-democratic set-up as its cardinal creed.

The Indian National Congress has throughout raised its voice in support of our demand and it was on the basis of this principle that the leaders of the Congress, is general, and Pandit Nehru in particular, extended cooperation and help to the Freedom Struggle of the State from its very inception. I may refer in this connection to the resolutions passed and the speeches delivered at the Annual Session of the All Jammu and Kashmir National Conference held at Sopore in 1945, in which Pandit Jawaharlal Nehru, Maulana Azad, Khan Abdul Ghaffar Khan, Khan Abdul Samed Khan and other top-ranking Congress leaders participated. In this session the people's demand for the right of self-determination formed the central theme of the resolutions passed.

The Congress leaders not only supported, all along, our demand for the right of self-determination, but also helped in organizing me in the "Quit Kashmir Case". Pandit Jawaharlal

Nehru did not only court arrest as a mark of his support to our struggle, but went to the extent of appearing as my council in the case, in collaboration with the late Mr. Asaf Ali and others. Subsequently, when the sub-continent was partitioned and the tribal raid took place, it was again in defence of this very right of self-determination that Government of India agreed to send its armed forces to Kashmir. Simultaneously, Government of India while accepting the Instrument of Accession signed by Maharaja Hari Singh on 26th October, 1947, laid down the condition that the accession was subject to ratification by the people.

Then came a period when Governments of India and Pakistan tried to solve the Kashmir dispute by direct negotiations. In May, 1953 we in "National Conference were asked to weigh and suggest the various alternate proposals for the solution. On 9th June the following unanimous decision was taken by a High Level Committee of the National Conference and Communicated to Panditji:

> "As a result of discussion held in the course of various meetings, the following proposals only emerge as possible alternatives for an honourable and peaceful solution of the Kashmir dispute between India and Pakistan:
>
> (a) Overall plebiscite with conditions as detailed in the minutes of the meeting dated 4th June 1953;
> (b) Independence of the whole State;
> (c) Independence of the whole State with joint control of foreign affairs and defence; and
> (d) Dixon plan with independence for the plebiscite area.

"Bakhshi (Ghulam Mohammed) Sahib was emphatically of the opinion that the proposal (d) above should be put up as first and the only practicable, advantageous and honourable

solution of the dispute. Maulana Sayeed, however, opined, that the order of preference as given above should be adhered to."

Unfortunately, the authorities at the helm of affairs could not appreciate the value of this and no further progress took place. In the meantime, events took an ugly turn and 9th August *Coup* was staged, story of which need not be related here:

It was as late as August, 1953, after my detention, that the two prime Ministers of India and Pakistan, after deliberating for a number of days in Delhi as to how-best to resolve this dispute, reiterated in a joint communique their "firm opinion that this (Kashmir Question) should be settled in accordance with the wishes of the people of that State.... The most feasible method of ascertaining the wishes of the people was by fair and impartial plebiscite."

Bakhshi Ghulam Mohammed, as Prime Minister of the State, in a press statement issued by him on 21st August, 1953, declared: "I welcome the declaration of the two Prime Ministers in regard to the future disposition of the State of Jammu and Kashmir on the basis of the principle of self-determination. This declaration was finalised on behalf of the Government of India with our concurrence and has our unqualified support." The holding of a plebiscite is thus a solution which is not only consistent with the objectives of the Freedom Struggle of Kashmir and the Independence Movement of the Indian people but is one to which all concerned with the dispute have unequivocally committed themselves, time and again.

## APPENDIX II

## KASHMIR ACCORD (FEBRUARY 1975)

*Agreed conclusions which led to Sheikh Mohammad Abdullah's accord with Mrs. Indira Gandhi, Prime Minister, and his subsequent assumption of office as Chief Minister in February 1975*

1. The State of Jammu and Kashmir which is a constituent unit of the Union of India, shall, in its relation with the Union, continue to be governed by Article 370 of the Constitution of India.

2. The residuary powers of legislation shall remain with the State; however, Parliament will continue to have power to make laws relating to the prevention of activities directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India or bringing about cession of a part of the territory of India or secession of a part of the territory of India from the Union or causing insult to the Indian National Flag, the Indian National Anthem and the Constitution.

3. Where any provision of the Constitution of India had been applied to the State of Jammu and Kashmir with adaptations and modifications, such adaptations and modifications can be altered or repealed by an order of the President under Article 370, each individual proposal in this behalf being considered on its merits; but provisions of the Constitution of India already applied to the State of Jammu and Kashmir without adaptation or modification are unalterable.

4. With a view to assuring freedom to the State of Jammu and Kashmir to have its own legislation on matters like welfare measures, cultural matters, social security, personal law and procedural laws, in a manner suited to the special conditions in the State, it is agreed that the State Government can review the laws made by Parliament or extended to the State after

1953 on any matter relatable to the Concurrent List and may decide which of them, in its opinion, needs amendment or repeal. Thereafter, appropriate steps may be taken under Article 254 of the Constitution of India. The grant of President's assent to such legislation would be sympathetically considered. The same approach would be adopted in regard to laws to be made by Parliament in future under the Proviso to clause 2 of the Article. The State Government shall be consulted regarding the application of any such law to the State and the views of the State Government shall receive the fullest consideration.

5. As an arrangement reciprocal to what has been provided under Article 368, a suitable modification of that Article as applied to the State should be made by Presidential order to the effect that no law made by the Legislature of the State of Jammu and Kashmir, seeking to make any change in or in the effect of any provision of Constitution of the State of Jammu and Kashmir relating to any of the undermentioned matters, shall take effect unless the Bill, having been reserved for the consideration of the President, receives his assent; the matters are:

(a) the appointment, powers, functions, duties, privileges and immunities of the Governor, and
(b) the following matters relating to Elections namely, the superintendence, direction and control of elections by the Election Commission of India, eligibility for inclusion in the electroal rolls without discrimination, adult suffrage and composition of the Legislative Council, being matters specified in sections 138, 139, 140 and 50 of the Constitution of the State of Jammu and Kashmir.

6. No agreement was possible on the question of nomenclature of the Governor and the Chief Minister and the matter is therefore, remitted to the Principals.

Mirza Mohammad Afzal Beg G. Parthasarathi
New Delhi, November 13, 1974

7. As an arrangement reciprocal to what has been provided Article 368, a suitable modification of that Article as applied to the State should be made by Presidential Order to the effect that no law made by the Legislature of the State of Jammu and Kashmir, seeking to make any change in or in the effect of any provision of the Constitution of the State of Jammu and Kashmir relating to any of the undermentioned matters shall take effect unless the Bill, having been reserved for the consideration of the President, receives his assent; the matters are:

(a) the appointment, powers, functions, duties, privileges and immunities of the Governor; and
(b) the following matters relating to election by the Election Commission of India, eligibility for inclusion in the electoral rolls without discrimination, adult sufferage, and composition of the Legislative Council, being matters specified in Section 138, 139, 140 and 50 of the Constitution of the State of Jammu and Kashmir.

8. No agreement was possible on the question of nomenclature of the Governor and Chief Minister and matter is therefore, remitted to the Principals.

Mirza Mohammad Afzal Beg G. Parthasarthi
New Delhi,
Dated Nov. 13, 1974

*Copy of a letter of Sheikh Mohd. Abdullah to the Prime Minister.*

3. Kotla Lane,
New Delhi,
Dated: 11-2-1975

My dear Prime Minister,

I have seen the text of the conclusions reached between Shri G. Parthasarthi and Mirza Mohammad Afzal Beg on the various constitutional issues concerning the Centre-State relationship between the State of J and K and the Union of India. I have studied the document and have also had discussions with you. As you are aware, it is my view that the constitutional relationship between the Centre and the State of J and K should be what it was in 1953. Nevertheless, I am happy to say that the Agreed Conclusions provide of good basis of my co-operation at the political level and for Centre-State relationship.

I appreciate that the main purpose of the dialogue was to remove misapprehension on either side to ensure that the bond between the Union and the State is further strengthened and to afford to the people of the State full scope for understanding social welfare and development measures.

The accession of the State of J and K to India is not a matter in issue. It has been my firm belief future of J and K lies with India because of the common ideals that we share. I hope you would appreciate that the sole reason for my agreeing to co-operate at the political and governmental levels is to enable the State Government to initiate for the well-being of the people of the State which I have always considered as my sacred trust. It will be my constant endeavour to ensure that the State of J and K continues to make its contribution to the sovereignty, integrity and progress of the Nation. By the same token, I am sure that the Central Government would cooperate with the State Government fully in respect of measures to be undertaken by the State Government to further the progress

and welfare of the people of the State as an integral part of India.

The country is passing through a critical period and it is all the more necessary for all of us who cherish the ideals of democracy, secularism and socialism, to strengthen your hands as the leader of the Nation and it is in this spirit that I am offering my whole-hearted co-operation.

Yours sincerely,
Sd/-
(S.M. Abdullah)

Shrimati Indira Gandhi,
Prime Minister of India,
New Delhi.

* * * *

*Copy of the Prime Minister's letter to Sheikh Mohammad Abdullah.*

New Delhi,
February 12, 1975.

Dear Sheikh Saheb,

I am happy to receive your letter expressing your concurrence with the conclusions reached between Mirza Mohammad Afzal Beg and Shri G. Parthasarthi, on certain constitutional aspects of the relationship of the Centre with the State of Jammu and Kashmir and offering your wholehearted co-operation at the political and governmental level to further promote the well-being of the people of the State of J and K. I am aware of your views of Centre-State relationship in respect of the State of J and K. I have already explained to you that the clock cannot be put back and we have to take note of the realities of the situation. I am appreciative of the spirit in which you have expressed your agreement with the terms of the Agreed Conclusions.

The Agreed Conclusions have been examined and I am in a position to inform you that such appropriate executive action may be necessary to give effect to them will be taken. I have been in close touch with the Chief Minister of the State who is in agreement with the approach in regard to political co-operation with you and the understanding reached about the relationship of the State with the Union.

The Central Government would undoubtedly continue to co-operate with the State Government fully in respect of measures to be undertaken by the State Government to further the progress and welfare of the people of the State, which is of equal concern to the Central Government.

As pointed out by you, the country is passing through a critical period and it is a matter of great satisfaction to me that a person of your stature who made an outstanding contribution during the freedom struggle should come forward again and co-operate in the task of strengthening the national and sustaining the ideals.

Yours sincerely,
Sd/-
(Indira Gandhi)

Sheikh Mohd. Abdullah,
3, Kotla Lane,
*New Delhi.*

* * * *

*Copies of Collateral Letters*

November 13, 1974.

Dear Shri Parthasarthi,

In the course of our discussion, I made a proposal that appeals to the Supreme Court under Article 132 of the Constitution of India from the decision of the High Court of Jammu and Kashmir, should lie only on a certificate under

clause (1) of that Article. After a detailed discussion on this, you had agreed to the proposal and stated that it can be implemented by order under Article 370 making suitable modification or the modifications made under Article 367.

Kindly acknowledge receipt of this letter.

Yours sincerely,
Sd/-
(Mirza Mohammad Afzal)

Shri G. Parthasarthi,
31, Aurangzeb Road,
New Delhi.

Dear Beg Saheb,

I acknowledge receipt of your letter dated the 13th November, 1974. The proposal referred to therein was discussed between us at length and agreed to by me. It can be implemented by an appropriate Order of the President in accordance with the procedure prescribed under Article 370.

Yours sincerely,
Sd/-
(G. Parthasarthi)

Mirza Mohammad Afzal Beg,
Camp: New Delhi.

## APPENDIX III

### Solemn Pledge to the People of Jammu and Kashmir Liberation Front 1979-80 Convention, Muzaffarabad, Azad Kashmir

1. **Military Objectives of the Jammu and Kashmir Liberation Front:**
   (a) Raising of the liberation army of the Muslims to launch the armed struggle for the liberation of Kashmir from the Indian occupation;
   (b) Training of Muslim youth and students in Azad Kashmir and Pakistan and procuring of arms for the liberation army;
   (c) Preparation of the Muslim youth and students in Kashmir occupied by India, for their participation in the armed struggle against Indian imperialism, imparting military training to them, providing arms to them and establishing a unified command to lead the armed struggle;
   (d) Drawing up a strategy to establish necessary communication network in the occupied Kashmir;
   (e) Organising the forces, which are at present fighting for the liberation of Kashmir into a united front to ensure the participation of Muslim masses in the armed struggle;
   (f) Building military pressure on Indian defence forces in order to force the Government of India to implement the resolution of the United Nations and ensure the realisation of the dream of the Muslims in Kashmir to decide their own destiny.

2. **Political Objectives of the Jammu and Kashmir Liberation Front**

India grabbed Kashmir by fraud and force in 1947, when the sons of the soil and the followers of religious injunction rose in revolt against the rapacious and oppressive rule of the

Hindu ruler, who was conspiring with the Hindu comunalists to accede to India against the wishes of the predominant Muslim majority population of the State. The Riyasat of Jammu and Kashmir is geographically a part of Pakistan, its rivers flow into this land of the pious and its people are an inseparable part of the Muslim nation of Pakistan. Kashmir is a Muslim State and the aspirations of the Muslims are linked with the attainment of Nizam-i-Mustafa (Islamic Governance) in its length and breadh so that the Muslims live in peace and brotherhood under the canopy of Islam. We are committed to the ideology of Islam. Our aim is the realisation of Islamic way of life. We do not contribute to any other ideology. The goal to be achieved is:

(a) Unification of the two parts of Kashmir, by demolishing the artificial dividing line created by the presence of the armies of Indian occupation;

(b) Self-determination for the people to decide the future of the State.

## APPENDIX IV

### Hizib-ul-Islam (Hand out) 1990*

Islam is our aim; Quran is our constitution. Jehad is our path; war till victory. God is great-the war cry of Hizib is, Allah a-Akbar; the cry of Hizib-ul-Islam, take heed India.

1. Muslim brotherhood in Kashmir has risen in arms against the userpers of its freedom, which has been snatched in 1947, and ever since. The Muslims have now taken to arms to free themselves from slavery, Muslim youth in the cities and towns and in the villages are to receive training in the use of arms to engage the Indian security forces.
2. There is no going back after the armed struggle begins. The Jehad is invincible. We demand our right to freedom, which has been recognised by the United Nations Organisation in 1947, and the British Government, which ruled India then.
3. An all round attack has to be launched on the State administration which has run the Indian colonial administrative machine in the State, the Indian security forces, at whose hands thousands of Mujahids have attained martyrdom and the enemies of the freedom of the Muslim brotherhood in Kashmir.
4. Muslim brotherhood of Kashmir is an integral part of the Umat-e-Islami, the Muslim nation of the world, which can no more be divided by any boundaries. There is no boundary between Kashmir and the Muslim Commonwealth of Pakistan, except that imposed by Indian imposters which at present divides the Muslims of Kashmir.
5. Traitors to the cause of Islam will alone shirk the responsibility to serve the cause of Islam and they

*Translated from Urdu.

> will receive the punishment that they ought to be given. All servants of Allah are enjoined to do whatever is in their power to wreck the government from inside and outside, harass, demoralise and destroy Indian security personnel, eliminate the enemies of the revolution, propagate Muslim law and Muslim code of life, which is supreme law in Kashmir and participate in mass resistance to Indian oppression.

The community of Pandits, in Kashmir, which has in it the treacherous agents of India, has no option other than submit to the law of Islam as the supreme law of Islam in Kashmir or leave Kashmir.

6. Our Youth is prepared to fight the Indian military with the support of the great Islamic Mujahidin of Palestine and Afghanistan, they will achieve victory and liberate the Muslims here from the clutches of an oppressive and crafty userper. Muslims have always fought for freedom and won it.

Jehad is victorious

## APPENDIX V

### Accession on Trial*

O, the Community, Quam of the Muslims of Kashmir, for how long more you will live the life of subservant slaves. The massive cinema houses and places of enjoyment where nude women perform dances, the wine-shops, which are open in every street, the public places where pleasures of a perverted society are available and where men and women reveal in debauchery, the colleges and schools; every thing reflects the degradation into which your culture is being pushed.

Now who have reduced your civilisation to dust, polluted the soil of your youth? Who have dug the roots of yours religion?

How long, will you, O Muslims allow yourself to be put to slumber on false hopes and promises. How long will you submit to be used for the satisfaction of personal and selfishends of power-brokers?

Do you want to wait and see your mosques being converted into public places, as it happened in Afghanistan for the infidels to use them? You know, so well; who your enemies are; who have enslaved you for years; who have snatched away your freedom and your land. You know, who want to destroy your culture, who want to grab your country and who want to destroy your faith.

Your enemies, who have robbed your freedom, are bent upon to destroy your identity and faith. They are, now, arranged massively against you with their army and weaponry. If you do not take the warning, you must realise that the history of Muradabad will be re-enacted here in your land. Like the land of Bhiwande, Chaibasa, Aligarh, Hyderabad, Jabalpur and Assam, your nativeland will also be dyed with your

---

*Mukadima-Ilhaq-Translated from Urdu

blood. You are fighting an imperial power which, with its Brahmanic outlook is creating troubles for you every day.

If you do not realise your plight.

## APPENDIX VI

### Hizib-ul-Mujahidin

Ultimatum to Kashmiri Pandits to leave Kashmir in two days. Published in Al-safa April 14, 1990.

**(1)**

Pandits, responsible for having perpetrated oppression and atrocity on the Muslims should quit in two days.

A spokesman of Hizib-ul-Mujahidin has stated that in a meeting of its Area Commanders, held yesterday, a decision was taken to give an ultimatum to the Kashmiri Pandits to leave Kashmir in two days. The spokesman said that all Pandits of Jammu and Kashmir should leave from here in two days. According to the spokesman behind the oppression and persecution of the Muslims. Pandits have a hand. He said that all the Pandits have become the instruments of Indian imperialism. He said that Pandits have received training in a arms outside the valley and have drawn up plans to forment disturbances of a serious nature. He said that the Area Commanders feel that the Pandits have a hand in the recent arrest of Mujahidin as well as the raids on their quarters. The spokesman said that the oppression against the Muslims is unleashed by them.

**(2)**

Sermon broadcast on the public Address* system of the Mosques in Srinagar

27-28 January 1990

(Extracts)

The aim of the Jehad is Azadi and it is enjoined by Almighty on all followers of Tauheed to participate in the Jehad. The

*Translated from Urdu.

crusade is for the establishment of Kashmir into an Islamic society. The heritics can only live in Islamic society if they accept the Islamic laws. The non-Muslims, have always helped the userpers from outside to enslave the Muslim masses in Kashmir. For them, therefore, the only way is to quit this "pak sarzameen", the sacred land.

## APPENDIX VII

## Political Fall Out

Many motives prompted the National Conference to exclude the State from the constitutional organisation of India:

(i) Since the execution of the Instrument of Accession by Maharaja Hari Singh, which the Conference leaders called "Paper Accession", was subjected to a plebiscite, the Muslims in Jammu and Kashmir believed that they had assumed a veto over the accession of the State to India. To retain the Muslims, the right to veto on the accession of the State, the Conference leaders opposed any constitutional postulates and agreements with India, which tantamount to the substitution of the Instrument of Accession, or alter its consequences.

(ii) Later events proved that the Conference leaders were inclined to ensure a placement of equidistance for the Jammu and Kashmir from India and Pakistan. The Conference leaders planned to consolidate the State into a separate political organisation, which could, at an appropriate time be projected as an alternative to the accession of the State to either of the two States, India and Pakistan.

(iii) Another consideration the Conference leaders had, to oppose the inclusion of the State into the constitutional organisation of India, was to evade the secular integration of the people of the State into the Union of India, on the basis of the right to equality, right to protection against discrimination on the basis of religion and right to freedom of faith, propagation of faith and right to safeguard as a religious minority. The Conference leaders disapproved of all forms of safeguards which the provisions of the Constitution of India envisaged

in respect of fundamental rights, on the ostensible pretext that such safeguards would frustrate the resolve of the Interim Government to undertake economic, political and social reforms in the State. The real motivation, however, was that the right to equality, right to protection against discrimination on the basis of religion right of freedom of faith, right to property and other constitutional safeguards enshrined by the Constitution of India conflicted with the Muslimisation of the State. In fact, the Interim Government vigorously enforced the communal precedence of the Muslim majority in the government and administration of the State, its economic organisation and its society.

The exclusion of the State from the constitutional organisation of India had disastrous consequences:

(i) The National Conference endeavour to retain the Muslim a veto on the accession of the State, by limiting constitutional relations between the state and India to the Instrument of Accession virtually repudiated the act of accession, Hari Singh had accomplished;

(ii) The exclusion of the State from the Indian constitutional organisation, on the basis of the Muslim majority character of its population, coincided with the ideological propositions which formed the basis of the League's claim to Pakistan.

(iii) The Hindus, among them particularly the Hindus in Kashmir, the Buddhists and the Sikhs were exposed to political oppression economic deprivation and social aggrandisement in the absence of legal safeguards, which followed from the enforcement of Muslim precedence in the government, economic organisation and the society of the State. They were reduced to a state of servitude

in a Muslim State.

(iv) Arbitrary exercise of State power, in the name of Islamisation, undermined the political responsibility, representative institutions and liberalisation of society in the State to the deteriment and disadvantage of all people.

The cumulative effect of the insulation of the State began to be felt sooner than expected. Article 370, led to the creation of the following consequences:

(i) the secessionist forces, operating in the State from the time of the accession of the State of India, supported by Pakistan, joined the National Conference in its endeavour to retain the Muslims the veto on the accession of the Jammu and Kashmir, which in due course of time led to the emergence of a new Muslim movement, committed to a plebiscite;

(ii) the Hindu reaction against the exclusion of the State from the constitutional organisation of India, unfolded into an open agitation for the integration of the State with the secular political organisation of India.

(iii) the stagnation of the economy of the State led to a serious economic and financial crisis in the State. Indian investment in the State was barred by the Interim Government Investment from countries outside India was expected to be made available only after the opinion of self-determination was exercised by the people of the State. The economic organisation of the State, hardly in a position to sustain its people, crumbled rapidly.

The decision of the Interim Government of the State to end the Dogra rule and replace the Ruler by a Chief Executive, presumably elected by the Muslim majority of the state, created

a sharp reaction both inside and outside the State. The Hindus and the other minorities in the State accused the national Conference of abolishing the office of the Ruler, to install a protege on the Conference in his place to fortify the separate identity of the State. The Government of India, which had allowed the exclusion of the State as a transitional measure, due to the reluctance of the Conference leaders, who had sought to use the United Nation to their advantage, had by now realised the inherent dangers in the exclusion of the State from the constitutional organisation of India. Infact, the Government of India, promptly informed the Conference leaders, that any changes in the existing constitutional organisation of the State, mainly the abolition of the dynastic rule of the Dogras, needed to be placed in the context of an overall change in the transitional provisions of Article 370 in order that the changes in the constitutional organisation of the State did not conflict with the Constitution of India Evidently, the Government of India expressed its preference for the inclusion of the State in the broad structure of the State before any changes were envisaged in the constitutional organisation of the State.

The Conference leaders, who had now assumed the position that the special constitutional provisions embodied in Article 370, were subject to the final decision of the Constituent Assembly, were surreptitiously preparing to use the constituent Assembly of the State to freeze the provisions of Article 370, and ensure the exclusion of State from the constitutional organisation of India, on more or less, a permanent basis. Perhaps, the removal of Hari Singh from the office of the Ruler of the State was aimed to get rid of the last instrument the Government of India would use to arrive at a fresh settlement on the constitutional relations between the State and the Union.

The National Conference leaders, had a high power meeting with Nehru and his colleagues, including Ayangar and Azad. Sheikh Mohammad Abdullah, joined by Beg,

Shahmiri, the Constitutional Advisor to the Constituent Assembly, besides Mir Qasim, constituted the Conference delegation.

The Indian leaders agreed to the changes in the constitutional organisation of the State, proposed by the National Conference, and accepted to allow the State exercise a wider residuary powers, but they proposed that, the exclusion of the State from the Indian constitutional organisation would have to be ended and the State integrated in the Republic of India1 in respect of territories, citizenship, fundamental rights and related safeguards, jurisdiction of the Supreme Court, emergencies arising out of war and the division of financial powers. The Conference leaders, though strongly opposed to the extension of any provisions of the Constitution of India to the State, were finally persuaded to accept a partial application of the provisions of the Constitution of India to the State in respect of citizenship, fundamental rights, original jurisdiction of the Supreme Court and the emergencies arising out of war and aggression. An understanding was reached between the two sides that the constitutional reforms in constitutional organisation of the State and the changes in the constitutional relations between the State and the Union, would be undertaken by the Constituent Assembly simultaneously, the agreement later came to be called the Delhi Agreement.

After the Conference leaders returned to Srinagar, they resiled from the agreement arrived at, in Delhi. In November 1952, a formal proposal to abolish the Dogra rule was moved in the Constituent Assembly. The office of the Ruler was abolished and replaced by the office of a Head of the State, who was elected by the Constituent Assembly, subject to the confirmation of the President of India for a fixed tenure. The Conference leaders elected Yuvraj Karan Singh the Head of the State. Thereafter, the Interim Government initiated no moves to bring about the changes in the constitutional relations between the State and the Union, as agreed upon in Delhi.

The Delhi Conference and the consequent agreement, was used as a ruse by the Conference leaders to eliminate Hari Singh. The contention of the Government of India that the provisions envisaged by Article 370 were transitional and temporary and deserved to be modified in view of the necessity to include the State in the Indian constitutional organisation, evoked severe opposition from the Interim Government. The events which followed are a part of history. In August 1953, the Interim Government headed by Sheikh Mohammad Abdullah was dismissed and replaced by a second Interim Government, headed by Bakshi Gulam Mohamad.

After the change over in the State Government, fresh discussions were held between the representatives of the second Interim Government and the Government of India. It was agreed upon that the provisions of the Constitution of India would apply to the State in respect of the territory of the Indian Union, citizenship, fundamental rights and the original jurisdiction of the Supreme Court, the emergencies arising out of war and aggression. Consequently a proclamation of the President was issued on 14 May 1954, which extended the application of the provisions of the Constitution of India, with several exceptions and reservations to the State. In the years, which followed the application of the provisions of the Constitution of India in respect of elections, audits, financial and administrative relations, emergencies arising out of constitutional breakdown and powers of the Supreme court, were extended to the State with crippling reservations.

The reservations and exceptions to the application of the provisions of the Constitution of India to the State were so devised as to ensure the Interim Government as well as the successive State Governments the authority:

(i) to perpetuate the separate political identity of the State on the basis of its the Muslim majority character of its population;

(ii) to Muslimise the Government and society of the State;

(iii) to enforce communal precedence of the Muslim majority in the administration of the State, its economic organisation and its social and cultural institutions in order to subordinate the Hindus and the other minorities to the slavery of a Muslim State.

During the years that followed, the insulation of the State into a separate Muslim identity, the Muslimisation of its government, economic organisation and the enforcement of the communal precedence of the Muslim majority in the society of the state, led to the consolidation of the secessionist forces. The militerisation of Islamic fundamentalism in the aftermath of Pakistan's intervention in Afghanistan, found its support basis in the Muslimised government, society and economic organisation of the State.

It is infact the so-called autonomy of the State, which was used as a cover to Muslimise its government and economic organisation and fundamentalise its social culture, eliminate the Hindus and other minorities, obliterate their past and history, which formed the foreground of the militant violence which broke out in 1989-90. It is not the erosion of autonomy which consolidated the separatist, communal and secessionist forces in the State. All such insinuations are a misreading of history and part of the disinformation campaign to camouflage, the real character of Muslim communalism and separatism in the State.

The Committee submits that:

(i) the separate political identity of the State based upon the Muslim majority character of its population contravenes the basis structure of the Constitution of India, which does not accept religious majority as a basis of political organisation.

(ii) Muslimisation of the government and society of Jammu and Kashmir is a negation of Indian secularism;

(iii) the enforcement of Muslim precedence in the administration, economic organisation, society and culture of the State, as a part the process of its autonomy is a violation of the basis fundamental rights the Constitution of India postulates.

The autonomy of the State, that it has enjoyed so far is an anti-thesis of Indian unity. It was a mechanism devised by the National Conference leadership in 1949, to secure a veto on the Instrument of Accession, and exclude the State from the territories of India and finally break it off from the Indian State. The claim to the restoration of 1952 position, underlines.

(i) the revocation of the provisions of the Constitution of India extended to the State after 1954, to secure its re-exclusion from the constitutional organisation of India;

(ii) after the State is excluded from the Constitutional organisation of India, use the militant violence to force a settlement on India, in which the Kashmir province, the contiguous Muslim majority regions of the Jammu province and the frontier of Ladakh are delinked from India.

The constitutional provisions envisaged by Article 370 are transitory provisions, and Ayangar assured the Constituent Assembly of India that in view of the invasion of the State, occupation of a part of its territories by Pakistan and the United Nations' intervention, the State was excluded from the Indian constitutional organisation. He assured the members that the Constitution of India would be made applicable to the State, integrating it into the Indian Republic. The framers of Article 370, did not and could not have visualised a perpetual Constituent Assembly.

The operation of the provisions of the Constitution of India, applicable to the State by the various Presidential orders including the Presidential Order of 1950, can be revoked by a Presidential order under section (d) of Article 370, as the provision of the sub-clause of clause(I), empowers the President to order the application of other provisions of the Constitution of India, which evidently is in consonance with the intentions of fathers of Indian constitution to integrate the Jammu and Kashmir State into the Indian Republic at an appropriate time.

Sub-clause(d) of clause(I) of Article 370, it must be noted, empowers the President to widen the application of Constitution of India to the State to integrate it in the Republic of India. The President can impose restrictions only on such provisions which he extends to the State by an order with the concurrence of the State. He cannot impose any restrictions on the provisions which are already applicable to the State, that is the spirit of clause(d) of Article 370 and no President of India will dare, transgress the constitutional limits, which his powers are subject to.

In its spirit and substance, clause(2) of Article 370 also reflects the intentions of the founding fathers of the Indian Constitution that the framers of the Indian Constitution, vested the President of India with the powers to order the revocation of the operation of Article 370 on the recommendations of the constituent Assembly of the State, strengthens the conviction that the founding fathers vested the powers conjointly with the President and the Constituent Assembly of the State to set aside the operation of Article 370 to further integrate the State in the constitutional organisation of India. The powers of the President to order that Article 370 shall be operative only with such exceptions and modification from such date as he may specify, forms as part the substantive content of the whole clause(3). In this regard too, the intentions of the founding fathers of the Indian Constitution, are manifestly evident.

It must also be noted that the founding fathers of the Indian Constitution laid down provisions, which were intended to bring to an end the operation of Article 370, or modify its operation, in order to revoke the limitations it imposed on the application of the constitution of India to the State or modify them to allow a wider flow of the Indian Constitution to the Jammu and Kashmir State. Article 370, it noted, was not intended to insulate the State from the Constitution of India permanently and the provisions of clause(3) were specifically included to widen the applicability of the Constitution of India to the State, not to limit or restrict it. The clause(3) could not have been intended to provide for restricting the operation of the application of the Constitution of India to the State, because, when the Article 370 was framed, no provision except of Schedule-VII, corresponding to the delegation of powers stipulated by the Instrument of Accession and Schedule-I, defining the territories of India were applicable to the State. Clause(3) could not have been intended to vest powers with the President to revoke the operation of Schedule-I and Schedule-VII, to exclude the State from the territories of India and the reversion of the delegation of powers to Union Government in respect of defence, communications and foreign affairs.

Clause(3) of Article 370, cannot be used against the intended motive of the Constituent Assembly. Gopalaswami Ayangar clarified the intention of the framers of the Constitution of India, behind Clause(3) of Article 370:

"The last clause refers to what may happen later on. We have said article 211—A will not apply to Jammu and Kashmir State. But that cannot be a permanent feature of the Constitution of the State, and hope it will not be. So the provision is made that when the Constituent Assembly has met and taken a decision both on the Constitution for the State and on the range of federal jurisdiction over the State, the President may on the recommendations of the Constituent Assembly issue an order that this Article 306(A) shall either cease to be operative

or shall be operative only subject to such exceptions and modifications as may be specified by him. But before he issues any order of that kind the recommendations of the Constituent Assembly will be a condition precedent. That explains the whole of this Article.

The effect of this Article is that Jammu and Kashmir State, which is now a part of India, will continue to be a part of India, will be a unit of future federal republic of India and the Union legislature will get jurisdiction to enact laws on matters specified either in the Instrument of accession or by later addition with the concurrence of the Government of the State. And steps have to be taken for the purpose of convening a Constituent Assembly in due course which will go into the matters I have already referred to. When it has come to a decision on the different matters it will make a recommendation to the President who will either abrogate Article 306-A or direct that it shall apply with such modifications and exceptions as the Constituent Assembly may recommend".

It must be noted State legislature, has not succeeded to any of the Constitutive powers the Constituent Assembly exercised in respect of Article 370. It cannot at any time initiate amendment or changes in the applicability of Article 370 or the subsequent Presidential orders, which have been promulgated from 1954 onwards. The Constitution of Jammu and Kashmir embodies the intention of the Constituent Assembly of the State. It imposes an absolute limitation on the powers of the State Legislative Assembly and the Legislative Council to initiate any amendment or change in the applicability of Schedule-I and Schedule VII of the Constitution of India to Jammu and Kashmir State. The matters placed outside the scope of the powers to amend the Constitution, vested with the State legislature, are:

(i) provisions of the Constitution of India applicable to the State;

(ii) provisions of section 3 of the Constitution of Jammu and Kashmir;

(iii) provisions of section 5 of the Constitution of Jammu and Kashmir;

(iv) the procedure of amendment of the Constitution of Jammu and Kashmir.

The President of India, in order to bring about any change in the applicability of the provisions of the Constitution of India to the State, is therefore, left with no alternative except to ask his government to move a Bill in the Parliament of India to amend Article 370. The Parliament of India represents the whole people of India on the basis of secular equality including the Hindus of Jammu and Kashmir. The representatives of the Indian people will not accept the re-delimitation of Jammu and Kashmir into a separate political identity on the basis of the Muslim majority character of its population, mainly because:

(i) the seggregation of Jammu and Kashmir into a Muslim State, outside the secular constitutional organisation of India will conflict with the secular basis of the Indian Constitution;

(ii) the Hindus and other minorities in Jammu and Kashmir cannot be deprived of the fundamental rights which though, partially, they enjoy by virtue of the application of the Constitution of India to the State, and subjected to the slavery of a Muslim State.

In Jammu and Kashmir State, a long pernecious movement for the secession of the State from India, on the basis assumptions

(a) that the Muslim majority in Jammu and Kashmir formed a part of the Muslim India, which was separated by virtue of the partition of India to form the State of Pakistan and

(b) that they had the option to decide the final disposition of the State in respect of its accession. The secessionist movement followed an identical ideological commitment to a separate Muslim political organisation which was governed by Islam and which was advocated by the Muslim league in support of the division of India. The secessionist movement, therefore, was fundamentally communal, separatist and theocratic in character. The militerisation of the secessionist movement in 1989, followed the same basic commitments to communalisation and secession of the State from India and its Muslimisation, within or outside Pakistan. The White Paper issued by the Joint Human Rights Committee states quite aptly:

"A more millant outlook inside as well as outside the various secesionist organisations including the Plebiscite Front, developed after the 1965 Indo-Pakistan war. A new generation of Muslim youth had grown under the shadows of the movement for plebiscite, which was imbibd by the ideological commitment to the Muslim nation of Pakistan. The movement for plebiscite, whatever may now be said to whitewash its significance, upheld the quest for a separate and independent state for the Muslims, aligned with the Muslim nation of Pakistan completely bred upon the spoils of the Muslim majoritarianism and Muslim precedence, and oriented to the Muslimised political culture of the State, totally fundamentalist in content, the new generation slowly assumed the leadership of the secessionist movements in the State. The new leadership as it emerged stressed that:

(i) the Muslim leadership of the National Conference had supported the accession of the state to India in 1947, against the will of the Muslims;

(ii) the secessionist movement led by the Plebiscite Front would not be able to liberate the Muslims

from the Indian yoke because the form of protest against India, it has followed was not adequate to force India to leave Kashmir;

(iii) the use of armed force alone could compel India to accept the right of the Muslims in the State to self-determination;

(iv) the Muslim state of Jammu and Kashmir was a natural part of the Muslim nation of Pakistan.

For the last six years, an unabated war of attritian against India is going on inside the State which is aimed to:

(i) delink the State from India and secure its integration with the Muslim homeland of Pakistan;

(ii) demolish the secular, social and political organisation of the State and convert it into a Muslim theocracy.

Politically, therefore, any linkage between the restoration of 1953 status and militerisation of secessionism implies that:

(i) the militant secessionist forces now operating in the State do not accept the exclusion of the Jammu and Kashmir from the constitutional organisation of India as a basis of a settlement on Kashmir;

(ii) the militant forces do not accept restoration of the 1953 status as a basis of a settlement on Kashmir and their military operations will continue, inspite of the exclusion of the State from the Indian constitutional organisation. In either option cited above, the fundamental question which the proponants of the 'greater autonomy' must answer are:

(a) What would be the guarantee that after State is excluded from the Indian political organisation, the secessionist forces, will not take advantage of the dissolution of all federal

instrumentalities in the state and deliver another military offensive against Kashmir?

(b) In case the militant violence continues even after the State is excluded from the Indian Union, who would guarantee that the exclusion of the State from the Indian political organisation would not be used as a plank to pull the State out of India?

(c) In the State, which is excluded from the Indian political organisation only on the basis of its Muslim majority character and to ensure its Muslimisation, how would the return of half a million Hindus, flushed out of Kashmir and Doda; under a well devised plan of ethnic cleansing, be ensured?

The new world, governed by the Universal Declaration of Human Rights does not accept any majority oppression as a part of legitimate political process. The restoration of 1953 status, virtually underlines the recognition of the Muslim majoritarianism as a basis of constitutional organisation of Jammu and Kashmir and its relation with India.

Any such proposition is not acceptable to the Hindus and the other minorities in the State. It violates the secular character of Indian polity, Indian commitment to human rights and right to life, equality and freedom, that the Hindus, and other minorities possess, not only in consequences of the Constitution of India but as inherent and inviolable claims, to justice. With the widespread militant violence going on unabated in the State, and the context of international involvement forced by militerisation of secessionism upon India, the demand for the exclusion of the State from the Indian constitutional organisation, has sinister forebodings. Disengagement of the state from the Indian political organisation, while the war of attrition is raging in the State, will tantamount to accept defeat before the war actually ends.

The restoration of the separate political identity of the State on the basis of the Muslim majority character of its population will reinforce the Muslim claim to a veto on the accession of the Sate to India.

The insistence of the Muslim League on a separate State to protect the Muslims from the Hindu majority in India and the right of the Indian Muslims to reconstitute themselves into a Muslim State, were the two basic planks, on which India was divided. The creation of an autonomous State of Jammu and Kashmir on the territory of India, but outside its political organisation on the same basis will go half way to substantiate the claim of Pakistan to Jammu and Kashmir. The Committee must consider, seriously, that neither the State government nor the Government of India has the right to bring about the dissolution of the State of India.

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